

## Chapter 6: Marine Vessels and Personal Watercraft (PWC)

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## **Part A—An Overview of the Marine Safety Act**

### **6.1 Introduction**

The Marine Safety Act is codified as Part 801 of the Natural Resources and Environmental Protection Act (NREPA), MCL 324.80101 et seq. It was enacted in 1995 as a replacement for the previous Marine Safety Act, which had been codified as MCL 281.1001 et seq. MCL 324.90106. All of the provisions that had been in the previous Marine Safety Act were renumbered and then codified as Part 801 of the NREPA. The Legislature made no substantive changes to the contents of those provisions. MCL 324.107 states:

“It is the intention of the legislature that editorial changes in the language of statutes codified as parts within this act not be construed as changes to the meanings of those statutes.”

The Marine Safety Act requires that most vessels being operated on the waters of this state have a certificate of number assigned to that vessel by the Secretary of State. MCL 324.80122 to MCL 324.80124. The identifying number and a decal must be displayed on each side of the forward half of the vessel. MCL 324.80122(1). The number and decal are referred to as the “registration number” and the “registration decal.”\*

In addition, vessels 20 feet or longer in length, and those powered by an inboard/outboard or inboard engine must be titled through the Secretary of State. MCL 324.80303 and MCL 324.80304. A person who violates MCL 324.80304 is guilty of a misdemeanor punishable by a fine of not more than \$100.00, imprisonment for not more than 90 days, or both. MCL 324.80322.

The fees charged for certificates of numbers are credited to the state waterways fund, the harbor development fund, and the marine safety fund. MCL 324.80115(1). These funds, in turn, are used to pay for marine safety education programs; for the construction, operation, and maintenance of recreational boating facilities and harbors and marinas; and for the purchase of equipment and personnel to enforce the requirements of the Marine Safety Act. MCL 324.80115(2).

\*See Section 6.9, below, for a more detailed discussion of the registration and decal requirements of the Marine Safety Act.

The offenses established by the Marine Safety Act can be grouped into the following 13 categories:

- Certificate of number and decal requirements.
- Equipment requirements.
- Operation of vessels by children less than 16 years of age.
- Right-of-way requirements and operation of vessels in restricted areas and at restricted times.
- Speed requirements.
- Reckless operation of vessels.
- Rocking and jostling of vessels.
- Waterskiing requirements.
- Underwater diving requirements.
- Failure to report accidents or give assistance at accidents.
- Careless or reckless operation of vessels causing death.
- Operation of vessels while intoxicated or impaired.
- Operation of vessels after operating privileges have been suspended.

Each of these categories of offenses is discussed in more detail in Part B of this chapter.

**Note:** The Natural Resources and Environmental Protection Act contains provisions for personal watercraft (PWC). In 1998, the Legislature repealed former MCL 324.80143, which had contained the requirements for PWC. Former MCL 324.80143 was then replaced by the Personal Watercraft Safety Act, MCL 281.1401 et seq., effective March 23, 1999. Effective June 27, 2000, the Personal Watercraft Safety Act was repealed, and the requirements that were contained in it were returned to the Natural Resources and Environmental Protection Act, MCL 324.80201 et seq. Except as otherwise required in MCL 324.80201 et seq., a PWC operator must comply with the requirements of the Marine Safety Act, MCL 324.80222. See Part C of this chapter for the special requirements for personal watercraft.

The Marine Safety Act applies to “vessels and associated equipment used, to be used, or carried in vessels used on waters subject to the jurisdiction of this state.” MCL 324.80105(1). Except where otherwise indicated, the Marine Safety Act does not apply to any of the following:

“(a) Foreign vessels temporarily using waters subject to state jurisdiction.

“(b) Military or public vessels of the United States, except recreational-type public vessels.

“(c) A vessel whose owner is a state or political subdivision of a state, other than this state and its political subdivisions, that is used principally for governmental purposes and that is clearly identifiable as such.

“(d) A ship’s lifeboat.” MCL 324.80105(2).

## 6.2 Definitions in Marine Safety Act

“‘Vessel’ means every description of watercraft used or capable of being used as a means of transportation on water.” MCL 324.80104(q).

“‘Waters of this state’ means any waters within the territorial limits of this state, and includes those waters of the Great Lakes that are under the jurisdiction of this state.” MCL 324.80104(r).

“‘Peace officer’ means any of the following:

“(i) A sheriff.

“(ii) A sheriff’s deputy.

“(iii) A deputy who is authorized by a sheriff to enforce this part and who has satisfactorily completed at least 40 hours of law enforcement training, including training specific to this part.

“(iv) A village or township marshal.

“(v) An officer of the police department of any municipality.

“(vi) An officer of the Michigan state police.

“(vii) The director and conservation officers employed by the department.” MCL 324.80104(c).

“‘Motorboat’ means a vessel propelled wholly or in part by machinery.” MCL 324.80103(f).

“‘Operate’ means to be in control of a vessel while the vessel is under way and is not secured in some manner such as being docked or at anchor.” MCL 324.80103(g).

## 6.3 Authority of District Court Magistrates Under the Marine Safety Act

### A. Misdemeanors Up to 90 Days

MCL 600.8511(a)(iii) provides that district court magistrates, when authorized by the chief judge, have the jurisdiction and duties to arraign and sentence upon pleas of guilty or nolo contendere for misdemeanor violations of the Marine Safety Act, when the maximum penalty does not exceed 90 days in jail, or a fine, or both.

**Note:** A magistrate may not take pleas or pass sentence for drunk driving violations of the Marine Safety Act. MCL 600.8511(a)(iii) only allows magistrates to take pleas and pass sentence when the maximum penalty for the crime does not exceed 90 days. The drunk driving offenses all have maximum penalties that exceed 90 days. See Section 6.20, below, for more information on drunk driving offenses in the Marine Safety Act.

### B. State Civil Infractions

MCL 600.8512(1) states:

“A district court magistrate may hear and preside over . . . civil infraction actions pursuant to . . . section 8819 [of the Revised Judicature Act]. In exercising the authority conferred by this subsection, the magistrate may administer oaths, examine witnesses, and make findings of fact and conclusions of law. If the defendant is determined to be responsible for a civil infraction, the magistrate may impose the civil sanctions authorized [by statute].”

MCL 600.8819, in turn, describes the procedures to follow at informal hearings in state civil infraction actions. MCL 600.8819(1) states:

“An informal hearing shall be conducted by a district court magistrate, if authorized by the judge or judges of the district court district, or by a judge of the district court or a municipal court. A district court magistrate may administer oaths, examine witnesses, and make findings of fact and conclusions of law at an informal hearing. The judge or district court magistrate shall conduct the informal hearing in an informal manner so as to do substantial justice according to the rules of substantive law, but is not bound by the statutory provisions or rules of practice, procedure, pleading, or evidence, except provisions relating to privileged communications. There shall not be a jury at an informal hearing. A verbatim record of an informal hearing is not required.”

**Note:** Certain counties exercise common jurisdiction over offenses committed on the Great Lakes:

- Offenses committed on Lake Erie within the boundary of Michigan may be adjudicated in either Wayne or Monroe Counties. MCL 45.6.
- Offenses committed on Lake St. Clair within the boundary of Michigan may be adjudicated in either Wayne, Macomb, or St. Clair Counties. MCL 45.8.
- Offenses committed on the waters of Lake Michigan within Michigan may be adjudicated by either of the two counties nearest to the place where the offense was committed. MCL 45.10.
- Offenses committed on the waters of Lake Huron within Michigan may be adjudicated by either of the two counties nearest to the place where the offense was committed. MCL 45.12.
- Offenses committed on the waters of Lake Superior within Michigan may be adjudicated in any county abutting Lake Superior. MCL 45.14.

## **6.4 Enforcement of Marine Safety Act by Peace Officers**

Peace officers with authority to enforce the Marine Safety Act include sheriff's deputies, special sheriff's deputies who have completed at least 40 hours of law enforcement training related to this act, local police officers, Michigan state police officers, and DNR conservation officers. MCL 324.80104(c) (definition of peace officer).

MCL 324.80168(1) provides that when a person is arrested for a misdemeanor violation of the Marine Safety Act, the peace officer shall prepare a written notice to appear in court. If the arrested person so demands, he or she shall be arraigned, without unreasonable delay, before a district court judge or magistrate. *Id.* The only exceptions to the use of appearance tickets are for persons who are charged with any of the following:

- Operating under the influence of alcohol or a controlled substance, or both (OWI), MCL 324.80176(1), or a substantially corresponding local ordinance;
- Operating while visibly impaired (OWVI), MCL 324.80176(3), or a substantially corresponding local ordinance;
- OWI causing death, MCL 324.80176(4);
- OWI causing serious impairment of a body function, MCL 324.80176(5);

- Reckless operation of a vessel, MCL 324.80147, or a substantially corresponding local ordinance.

MCL 324.80167(b)-(c).

**Note:** An officer may issue an appearance ticket for reckless operation of a vessel if it does not appear that releasing the person pending the issuance of a warrant will constitute a public menace. MCL 324.80167(c).

If the person arrested for a misdemeanor violation of the Marine Safety Act, except for a drunk driving offense contained in MCL 324.80167, is a nonresident of Michigan, the peace officer may require the person to recognize to the officer with a sum of money not to exceed \$25.00. MCL 324.80169. If the person fails to appear as required, this recognizance shall be forfeited, in addition to any other penalty provided by the act. *Id.*

## 6.5 Safety Inspections of Vessels

MCL 324.80166 provides that a peace officer acting in the lawful performance of his or her duties may stop vessels in the waters of the state to conduct safety inspections of those vessels. If the vessel passes the inspection, the peace officer shall affix to the vessel a color-coded marine safety inspection decal that is effective for one calendar year. If the officer observes a violation of the Marine Safety Act, the officer may issue a notice to appear or a written or verbal warning.

MCL 324.80166(1)–(3) state:

“(1) Upon the direction of a peace officer acting in the lawful performance of his or her duty, the operator of a vessel moving on the waters of this state shall immediately bring the vessel to a stop or maneuver it in a manner that permits the peace officer to come beside the vessel. The operator of the vessel shall do the following upon the request of the peace officer:

“(a) Provide his or her correct name and address.

“(b) Exhibit the certificate of number awarded for the vessel.

“(c) If the vessel does not bear a decal described in section 80166a or an equivalent decal issued by or on behalf of another state, submit to a reasonable inspection of the vessel and to a reasonable inspection and test of the equipment of the vessel.

“(2) Except for inspection of a vessel to determine the number and adequacy of personal flotation devices on that vessel, a peace officer shall not stop and inspect a vessel bearing the decal described in [MCL 324.80166a] or an equivalent decal issued by or on behalf of another state during the period the decal remains in effect unless that peace officer has a reasonable suspicion that the vessel or the vessel’s operator is in violation of a marine law.

“(3) A person who is detained for a violation of this part or of a local ordinance substantially corresponding to a provision of this part and who furnishes a peace officer false, forged, fictitious, or misleading verbal or written information identifying the person as another person is guilty of a misdemeanor.”

**Note:** The Law Enforcement Division of the DNR does not construe MCL 324.80166 as permitting random stops of vessels by peace officers where a reasonable suspicion to believe that a law is being violated is absent. It is the philosophy of that division that vessels are to be treated like motor vehicles under the laws of Michigan for purposes of stopping and searching a vessel. Once a vessel is lawfully stopped, it may be subject to a non-intrusive safety inspection.

The inspection decal provided for in MCL 324.80166 has not been implemented. At the time that MCL 324.80166 was enacted, the concept appeared reasonable. However, with nearly one million registered watercraft in the state, coupled with relatively few marine enforcement officers and the length of the boating season, the concept proved impractical.

There was also significant cost associated with such a program. A durable decal needed to be designed, produced, and distributed. The language of the statute also created a record-keeping requirement. More important was the fact that officers would spend a significant amount of their time inspecting a small percentage of registered vessels; time that would be more appropriately spent on the water enforcing the act.

## 6.6 Rule Making Authority of DNR

The Marine Safety Act provides that the DNR may promulgate rules to establish safety standards for vessels. MCL 324.80114(1)–(2) state:

“(1) The department may promulgate rules to establish performance or other safety standards relating to boat construction or the installation, use, or carriage of associated equipment.

“(2) In order that a boat operator may pass unhindered from jurisdiction to jurisdiction, it is the intention of the legislature that



rules authorized by this section shall be identical to federal regulations for enforcement purposes. However, rules requiring the carrying or using of marine safety articles to meet uniquely hazardous conditions or circumstances within this state may be promulgated, if the rules for the safety articles are approved by the United States coast guard.”

A person who violates a rule or order promulgated by the DNR shall be guilty of a misdemeanor\* punishable by:

- imprisonment for not more than 90 days;
- a fine of not more than \$500.00; or
- both.

MCL 324.80171 and MCL 750.504 (punishment of misdemeanor when not fixed by statute).

**Note:** There have been a great many marine safety rules promulgated by the DNR. These rules deal with the following subjects:

- Regattas and marine parades. R 281.1002–281.1007.
- State aid for marine safety programs. R 281.1031–281.1040.
- Uniform waterway marking system. R 281.1101–281.1114.
- Numbering of vessels and motor boats. R 281.1201–218.1209.
- Reporting requirements for marine accidents. R 281.1221–281.1226.
- Required equipment on vessels. R 281.1231–281.1252.
- Vessels carrying passenger for hire. R 281.3101–281.3506.

Many of these rules will be discussed in greater detail in subsequent sections of this chapter. In addition, the rules for equipment on vessels are quoted in full in Part D of this chapter.

## 6.7 Local Ordinances That Regulate Marine Safety

MCL 324.80110 to 324.80112 describe the procedures for the enactment of special rules and local ordinances that deal with the operation of vessels.

MCL 324.80110 states:

“The [DNR] may initiate investigations and inquiries into the need for special rules for the use of vessels, water skis, water sleds,

\*By comparison, violations of administrative rules under the ORV Act and the Snowmobile Act are civil infractions. See MCL 324.504.

aquaplanes, surfboards, or other similar contrivances on any of the waters of this state. If controls for such activities are considered necessary, or changes or amendments to or repeal of an existing local ordinance is required, a local ordinance shall be prepared. Notice of a public hearing shall be made in a newspaper of general circulation in the area in which the local ordinance is to be imposed, amended, or repealed, not less than 10 calendar days before the hearing. Interested persons shall be afforded an opportunity to present their views on the proposed local ordinance either orally or in writing.”

MCL 324.80111 states:

“A local ordinance proposed pursuant to [MCL 324.80110] shall be submitted to the governing body of the political subdivision in which the controlled waters lie. Within 60 calendar days, the governing body shall inform the [DNR] that it approves or disapproves of the proposed local ordinance. If the required information is not received within the time specified, the [DNR] shall consider the proposed local ordinance disapproved by the governing body. If the governing body disapproves the proposed local ordinance, or if the 60-day period has elapsed without a reply having been received from the governing body, no further action shall be taken. If the governing body approves the proposed local ordinance, the local ordinance shall be enacted identical in all respects to the local ordinance proposed by the [DNR].”

MCL 324.80112 states:

“Local political subdivisions that believe that special local ordinances of the type authorized by this part are needed on waters subject to their jurisdiction shall inform the [DNR] and request assistance. All such requests shall be in the form of an official resolution approved by a majority of the governing body of the concerned political subdivision. Upon receipt of such resolutions, the [DNR] shall proceed as required by [MCL 324.80110] and [MCL 324.80111].”

**Note:** The process described in these sections allows the DNR to cooperate with local units of government to establish special local watercraft controls. These special controls are used to address marine safety concerns that can not be addressed by provisions contained in the act. Local watercraft controls are not implemented to prohibit certain types of watercraft or to solve societal conflicts unrelated to marine safety.

MCL 324.80113(1) of the act provides that state, county, and local peace officers are authorized to enforce these ordinances.

MCL 324.80113(2) also provides that the local watercraft controls promulgated as administrative rules prior to March 1986 shall remain valid unless they are rescinded pursuant to MCL 324.80108, MCL 324.80110, MCL 324.80111, and MCL 324.80112. This may create a confusing situation in that a court may see citations issued for both ordinance violations (promulgated after 1986) and administrative rule violations (promulgated before 1986) stemming from marine activity on the same body of water.

## 6.8 Penalty Provisions in Marine Safety Act

Except as otherwise provided, a person who violates the Marine Safety Act is guilty of a misdemeanor. MCL 324.80171. The misdemeanor shall be punishable by:

- imprisonment for not more than 90 days;
- fine of not more than \$500.00; or
- both.

MCL 750.504 (punishment of misdemeanor when not fixed by statute).

The only two civil infractions in the Marine Safety Act are as follows:

- Failure to assure that all children under six years of age are wearing personal flotation devices while in a vessel. See Section 6.10(B), below.
- Refusal to submit to a preliminary chemical breath analysis test (PBT). See Section 6.20(L), below.

**Note:** There are many administrative rules, a violation of which constitutes a misdemeanor punishable by imprisonment for not more than 90 days, a fine of not more than \$500.00, or both. MCL 324.80171 and MCL 750.504.\* The following are the most notable of these rules:

- Rules 281.1201 to 281.1209, numbering of vessels and motorboats. See Section 6.9, below.
- Rules 281.1231 to 281.1252, required equipment on vessels. See Section 6.10, below.
- Rules 281.1221 to 281.1226, reporting requirements for marine collisions, accidents, or other casualties. See Section 6.18, below.

**Minimum state costs and justice system assessment.** Effective October 1, 2003, a schedule of minimum state costs was established for all misdemeanor

\*By comparison, violations of administrative rules under the ORV Act and the Snowmobile Act are civil infractions. See MCL 324.504.

and felony convictions, including vessel and watercraft convictions. MCL 600.8381(4) states:

“Beginning October 1, 2003, when fines and costs are assessed by a judge or district court magistrate, the defendant shall be ordered to pay costs of not less than \$45.00 for each conviction for a serious misdemeanor or a specified misdemeanor or costs of not less than \$40.00 for each conviction for any other misdemeanor or ordinance violation.”

\*See Section 6.20(B) and (D), below.

“Serious misdemeanors” are listed in MCL 780.811(1)(a). The only “serious misdemeanor” discussed in this chapter is operating a vessel while under the influence of or impaired by intoxicating liquor or a controlled substance, or with an unlawful bodily alcohol content, MCL 324.80176(1) and (3), if the violation involves an accident resulting in damage to another individual’s property or physical injury or death to another individual.\* MCL 780.811(1)(a)(*xiii*). The definition of “serious misdemeanor” includes a violation of a local ordinance substantially corresponding to a “serious misdemeanor,” and a charged felony or serious misdemeanor subsequently reduced or pled to as a misdemeanor. MCL 780.811(a)(1)(*xiv*)–(*xv*).

“Specified misdemeanors” are misdemeanor violations of statutory provisions listed in MCL 780.901(h). The only “specified misdemeanor” discussed in this chapter is operating a vessel while intoxicated or visibly impaired, MCL 324.80176(1) and (3). MCL 780.901(h)(*iv*). The definition of “specified misdemeanor” includes a violation of a local ordinance substantially corresponding to the violation noted above. MCL 780.901(h)(*x*).

If a court orders a defendant to pay any combination of fines, costs, or assessments, the court shall order the defendant to pay minimum state costs of not less than \$60.00 for felony convictions. MCL 769.1j(1)(a). The only felonies discussed in this chapter are failure to report an accident involving serious impairment of a body function or death, felonious operation, OWI third or subsequent offense, OWI causing death, and OWI causing serious impairment of a body function.

In addition, the minimum state cost must be a condition of probation. MCL 771.3(1)(g).

A justice system fund assessment of \$10.00 shall be ordered in addition to other fines and costs imposed for non-traffic state and municipal civil infractions. MCL 600.8727(4) and MCL 600.8827(4).

## Part B—Traffic Offenses in the Marine Safety Act

### 6.9 Certificate of Number and Decal Requirements

The Marine Safety Act requires that most vessels being operated on the waters of this state have a certificate of number assigned to that vessel by the Secretary of State. MCL 324.80122 to MCL 324.80124. The identifying number and a decal must be displayed on each side of the forward half of the vessel. MCL 324.80122(1). The number and decal are referred to as the “registration number” and the “registration decal.”

In addition, vessels 20 feet or longer in length, and those powered by an inboard/outboard or inboard engine must be titled through the Secretary of State. MCL 324.80304. A person who violates MCL 324.80304 is guilty of a misdemeanor punishable by:

- imprisonment for not more than 90 days;
- fine of not more than \$100.00; or
- both.

MCL 324.80322.

MCL 324.80122 states:

“(1) Except as otherwise provided in this part, a person shall not operate or give permission for the operation of a vessel of any length on the waters of this state unless the fees prescribed in section 80124 for the vessel are paid, the certificate of number assigned to the vessel is on board and is in full force and effect, and, except for the following, the identifying number and decal are displayed on each side of the forward half of the vessel in accordance with this part and the rules promulgated by the department under this part:

“(a) A decal and identifying numbers for a wooden hull and historic vessel as that term is defined in section 80124 may be displayed in the manner described in section 80126(2).

“(b) A decal for an inflatable boat may be displayed on the transom of the boat.

“(2) If a vessel is actually numbered in another state of principal use in accordance with a federally approved numbering system, it is in compliance with the numbering requirements of this state while it is temporarily being used in this state. This subsection

applies to a vessel for which a valid temporary certificate is issued to the vessel's owner by the issuing authority of the state in which the vessel is principally used.

“(3) If a vessel is removed to this state as the new state of principal use, a number awarded by any other issuing authority is valid for not more than 60 days before numbering is required by this state.”

MCL 324.80123 lists all the exemptions for vessels that are not required to have registration numbers and decals. MCL 324.80123(1)–(3) state:

“(1) The owner of a vessel is not required to pay a fee and a vessel is not required to be numbered and to display a decal under this part if the vessel is 1 or more of the following:

“(a) Used temporarily on the waters of this state and the owner and the vessel are from a country other than the United States.

“(b) A vessel that is owned by the United States, used in the public service for purposes other than recreation, and clearly identifiable as such a vessel.

“(c) A vessel's lifeboat.

“(d) An all-terrain vehicle not used as a vessel.

“(e) A raft, sailboard, surfboard, or swim float.

“(f) A vessel 16 feet or less, propelled by hand either with oars or paddles, and not used for rental or other commercial purposes.

“(g) A nonmotorized canoe or kayak not used for rental or other commercial purposes.

“(2) The owner of a vessel documented by the United States coast guard or a federal agency that is the successor to the United States coast guard shall comply with this part, including the payment of fees as provided in this part. However, the vessel shall not be required to display numbers under this part.

“(3) This part does not prohibit the numbering of an undocumented vessel pursuant to this part upon request by the owner, even though the vessel is exempt from the numbering requirements of this part.”

**Note:** Certain vessels may be “documented” by a process administered by the United States Coast Guard. In order to be documented, a vessel must be at least five net tons. Documentation

is mandatory for a vessel being used for commercial purposes on federally navigable waters and is optional for those used only for recreation. Only vessels manufactured in the United States may be documented. Also, with very few exceptions, the vessel must be wholly owned by a U.S. citizen.

The documentation process essentially results in a vessel having a “clear title,” as the history of the vessel is recorded beginning at the start of the building process and continuing through all changes in ownership. Documentation is desirable because it enhances financing options through the availability of preferred mortgages; it provides conclusive evidence of nationality for international purposes; and it provides for unhindered commerce between the states.

Although documented vessels are not required to display registration numbers, they are required to obtain a certificate of number and to display the registration decal.

MCL 324.80124 is a very lengthy statutory section that contains 25 subsections. Among other things, MCL 324.80124 describes the application procedure for obtaining a certificate of number and lists the fees for all the different types of vessels.

The DNR has promulgated rules regarding the size, color, and placement of identifying numbers on vessels. R 281.1201 to 281.1209. A violation of these rules is a misdemeanor. MCL 324.80171. R 281.1204 states:

“(1) Each number required by . . . the act shall meet all of the following requirements:

“(a) Be painted on or permanently attached to each side of the forward half of the vessel or motorboat except as allowed by subrule (2) or required by subrule (3).

“(b) Be in plain vertical block characters of not less than 3 inches in height.

“(c) Contrast with the color of the background and be distinctly visible and legible.

“(d) Have spaces or hyphens that are equal to the width of the letter “M” between the letter and number groupings (example: MC 0000 AA or MC--0000--AA).

“(e) Read from left to right.

“(f) Be as high above the water line as practical.

“(2) When a vessel or motorboat is used by a manufacturer or dealer for testing or demonstrating, the number may be painted on or attached to removable plates that are temporarily but firmly attached to each side of the forward half of the vessel or motorboat.

“(3) On vessels or motorboats so configured that a number on the hull or superstructure would not be easily visible, the number must be painted on or attached to a backing plate that is attached to the forward half of the vessel or motorboat so that the number is visible from each side of the vessel or motorboat.”

## 6.10 Equipment Requirements and Required Personal Flotation Devices

### A. Misdemeanor—Equipment Requirements

MCL 324.80156 details the sound requirements for motorboat mufflers and underwater exhaust systems. MCL 324.80156(1) states:

\*MCL 324.80156(2) allows the DNR to establish rules for alternative sound level tests and maximum decibel levels.

“Subject to subsection (2),\* a person shall not operate a motorboat on the waters of this state unless the motorboat is equipped and maintained with an effective muffler or underwater exhaust system that does not produce sound levels in excess of 90 dB(A) when subjected to a stationary sound level test as prescribed by SAE J2005 or a sound level in excess of 75 dB(A) when subjected to a shoreline sound level measurement procedure as described by SAE J1970. The operator of a motorboat shall present the motorboat for a sound level test as prescribed by SAE J2005 upon the request of a peace officer. If a motorboat is equipped with more than 1 motor or engine, the test shall be performed with all motors or engines operating. To determine whether a person is violating this subsection, a peace officer may measure sound levels pursuant to procedures prescribed in SAE J1970, issued 1991-92.”

A person who violates MCL 324.80156(1) is guilty of a misdemeanor punishable by:

- imprisonment for not more than 90 days; and
- fine of not less than \$100.00 or more than \$500.00.

MCL 324.80156(6). In addition, the person must install a muffler or underwater exhaust system that meets the act’s requirements before putting the vessel back in use. *Id.*

**Note:** The DNR has promulgated 22 different rules dealing with equipment requirements for vessels. R 281.1231 to 281.1252.



Each of these rules is quoted in full in Part D of this chapter. A violation of these rules is a misdemeanor. MCL 324.80171.

These rules describe the requirements for navigation lights, personal flotation devices, fire extinguishers, backfire flame controls, ventilation ducts, mufflers, and exhaust systems. In addition, they provide additional equipment requirements for inboard and outboard motorboats, sailboats, rowboats, canoes, and kayaks.

## **B. State Civil Infractions—Flotation Devices for Children**

MCL 324.80142 is the only civil infraction in the Marine Safety Act dealing with equipment violations. MCL 324.80142(1) states:

“Except as provided in subsection (3), a person shall not operate a vessel on the waters of this state unless each person in an open deck area on board the vessel who is less than 6 years of age is wearing a type I or type II personal flotation device as described in R 281.1234 of the Michigan administrative code.”

MCL 324.80142(5) states that a person who violates this section is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$100.00. See Part D for a quotation of R 281.1234.

## **6.11 Operation of Vessels by Children Less Than 16 Years of Age**

MCL 324.80140(2) provides that the DNR “shall put into effect a program to train young boat operators and shall issue boating safety certificates to those who satisfactorily complete the program.”

MCL 324.80141(1) and (2) establish the restrictions for the operation of vessels by children less than 16 years of age. MCL 324.80141 states:

“(1) Except as otherwise provided in subsection (4), a person less than 12 years of age shall not operate a motorboat on the waters of this state unless all of the following conditions are met:

“(a) He or she is under the direct supervision of a person on board the motorboat who is 16 years of age or older.

“(b) The motorboat he or she operates is powered by a motor or motors totaling no more than 35 horsepower.

“(2) Except as otherwise provided in subsection (4), a person 12 through 15 years of age may operate a motorboat on the waters of this state only if that person complies with either of the following:

“(a) He or she is accompanied by at least 1 person 16 years of age or older.

“(b) He or she is in possession of a boating safety certificate issued after he or she has satisfactorily completed a [DNR] approved course in boating safety.

“(3) A person 12 through 15 years of age operating a motorboat pursuant to subsection (2)(b) shall present the boating safety certificate issued to him or her upon the demand of any peace officer.

“(4) This section does not apply to the operation of a motorboat that is powered by a motor or motors totaling no more than 6 horsepower.”

## **6.12 Right-of-Way Requirements and Operation of Vessels in Restricted Areas or at Restricted Times**

### **A. Right-of-Way Requirements**

MCL 324.80144(1)–(2) state:

“(1) When vessels are being operated in such a manner as to make collision imminent or likely, the following rules apply:

“(a) When 2 vessels are approaching each other head-on, or nearly so, the operator of each shall cause his or her vessel to pass on the port side of the other.

“(b) When overtaking a vessel proceeding in the same direction, the operator of the overtaking vessels, unless it is not feasible to do so, shall pass on the port side of the vessel ahead.

“(c) When 2 vessels are approaching each other at right angles or obliquely so as to involve risk of collision, other than when 1 vessel is overtaking another, the operator of the vessel that has the other on his or her own port side shall hold his or her course and speed, and the operator of the vessel that has the other on his or her own starboard side shall give way to the other by directing his or her course to starboard so as to cross the stern of the other

vessel or, if necessary to do so, shall slacken his or her speed, stop, or reverse.

“(d) When a motorboat and a vessel under sail are proceeding in a manner that involves a risk of collision, the operator of the motorboat shall give way to the vessel under sail.

“(e) When a motorboat and a vessel not propelled by sail or mechanical means are proceeding in a manner that involves risk of collision, the operator of the motorboat shall give way to the other vessel.

“(f) When, by any of the rules provided in this section, the operator of a vessel is required to give way to the other, the operator of the other vessel shall maintain his or her direction and speed.

“(2) This section does not relieve the operator of a vessel otherwise privileged by this section from the duty to operate with due regard for the safety of all persons using the waters of this state.”

**Note:** The DNR does not construe MCL 324.80144 as a penal provision because it does not prohibit certain operator behaviors. It simply provides basic guidance on how vessels should be operated under various circumstances. This section may also be used in the case of an accident involving two or more vessels to help establish a responsible party.

## B. Operation of Vessels in Restricted Areas

The Marine Safety Act establishes the requirements for the operation of vessels in restricted areas. MCL 324.80149 states:

“Persons operating vessels on the waters of this state in areas not marked by well defined channels, canals, rivers, or stream courses shall operate the vessels in a counter-clockwise fashion to the extent that it is reasonably possible. These persons and persons being towed on water skis or on a water sled, kite, surfboard, or similar contrivance shall maintain a distance of 100 feet from any dock, raft, buoyed or occupied bathing area, or vessel moored or at anchor, except when the vessel is proceeding at a slow—no wake speed or when water skiers are being picked up or dropped off, if that operation is otherwise conducted with due regard to the safety of persons and property and in accordance with the laws of this state.”

MCL 324.80150 states:

“A person shall not operate a vessel on any of the waters of this state within a lawfully authorized restricted area clearly marked by buoys, beacons, or other distinguishing devices as being prohibited to vessels.”

**Buoys and beacons.** MCL 324.80162 states:

“A person shall not moor or fasten a vessel to a lawfully placed buoy or beacon, except mooring buoys, or willfully move, remove, or damage such a buoy or beacon.”

**Note:** MCL 324.80159 establishes the permit requirements for placing of buoys and beacons. In addition, the DNR has created through its rule making powers a state uniform waterway marking system. See R 281.1101 to 281.1114.

A person who violates the above enumerated statutes is guilty of a misdemeanor punishable by:

- imprisonment for not more than 90 days;
- fine of not more than \$500.00; or
- both.

MCL 324.80171 and MCL 750.504.

### **C. Operation of Vessels at Restricted Times**

MCL 324.80108a prohibits the operation of “airboats” during certain hours when the vessels are within a specific distance of area residences.

An “airboat” is “a motorboat that is propelled, wholly or in part, by a propeller projecting above the water surface.” MCL 324.80101(a). MCL 324.80108a(1) prohibits a person from operating an airboat on state waters “within 450 feet of a residence between the hours of 11 p.m. and 6 a.m. at a speed in excess of the minimum speed required to maintain forward movement.” There are three exceptions to this rule:

- operating an airboat during an emergency when necessary to protect public safety;
- operating an airboat after it has run aground in an effort to free the boat; and
- operating a clearly marked and identifiable airboat for a governmental purpose. MCL 324.80108a(2)(a)–(c).

A person who violates MCL 324.80108a(1) is guilty of a misdemeanor punishable by:

- imprisonment for not more than 90 days;
- fine of not more than \$500.00; or
- both.

MCL 324.80171 and MCL 750.504.

## 6.13 Speed Requirements

**Assured and clear distance.** MCL 324.80145 states:

“A person operating or propelling a vessel upon the waters of this state shall operate it in a careful and prudent manner and at such a rate of speed so as not to endanger unreasonably the life or property of any person. A person shall not operate any vessel at a rate of speed greater than will permit him or her, in the exercise of reasonable care, to bring the vessel to a stop within the assured clear distance ahead. A person shall not operate a vessel in a manner so as to interfere unreasonably with the lawful use by others of any waters.”

**No wake speed.** Under certain circumstances a vessel must be operated at a no wake speed. MCL 324.80148(1)–(2) state:

“(1) Subject to the exceptions described in subsection (2), a person shall not operate a motorboat at more than slow—no wake speed if any of the following circumstances exist:

“(a) A person is located on or in the bow of the motorboat, and that motorboat is not manufactured to provide bow seating.

“(b) A person or a portion of a person’s body extends beyond the exterior port or starboard walls of the hull of the motorboat.

“(2) This section does not apply to either of the following:

“(a) A person engaged in the operation of a sailboat that is not being powered by a motor.

“(b) A person on board a vessel who is attempting to anchor, moor, dock, or otherwise secure the vessel.”

**Penalties for violation of assured and clear distance and no wake speed.**

A person who violates MCL 324.80145 or MCL 324.80148 is guilty of a misdemeanor punishable by:

- imprisonment for not more than 90 days;
- fine of not more than \$500.00; or
- both.

MCL 324.80171 and MCL 750.504.

**Maximum speed limit.** MCL 324.80146(1)–(5) establish the maximum speed limit for vessels that operate on the waters of Michigan. MCL 324.80146 states:

“(1) The [DNR] may promulgate rules to establish maximum motorboat speed limits or to allow unlimited motorboat speed on the waters of this state.

“(2) On waters of this state for which a motorboat speed limit is not established under subsection (1), on any waters for which the [DNR] has not established an unlimited motorboat speed limit, or on any waters for which stricter speed restrictions are not established pursuant to an act, a maximum speed limit of 55 miles per hour is established, except in an emergency and except for authorized peace and conservation officers when engaged in official duties. The maximum speed limit of 55 miles per hour shall not apply to the Great Lakes and Lake St. Clair, except for an area within 1 mile of the shoreline measured at a right angle from the shoreline. Upon receipt of a resolution by the governing body of a local unit of government having jurisdiction over waters of this state requesting a reduction in the maximum speed limit on those waters, the [DNR], pursuant to [MCL 324.80108] to [MCL 324.80113], may establish a maximum speed limit not to exceed 40 miles per hour on those waters.

“(3) A person shall not operate a motorboat on the waters of this state at a speed greater than slow–no wake speed or the minimum speed necessary for the motorboat to maintain forward movement when within 100 feet of the shoreline where the water depth is less than 3 feet, as determined by vertical measurement, except in navigable channels not otherwise posted.

“(4) A person operating a motorboat in violation of this section is guilty of reckless operation\* of a motorboat punishable as provided in [MCL 324.80171].

“(5) The [DNR] may waive this section and [MCL 324.80156] for marine events authorized by the [DNR] under [MCL 324.80164].”

\*See Section 6.14, below, for more information on reckless operation of vessels.

A person who violates MCL 324.80146 is guilty of a misdemeanor punishable by:

- imprisonment for not more than 90 days;
- fine of not more than \$500.00; or
- both.

MCL 324.80171 and MCL 750.504.

In addition, the court may order that the defendant not operate any vessel in the waters of the state for a period of not more than two years. MCL 324.80171.

**Note:** Violation of the above–enumerated speeding provisions while on a personal watercraft may constitute reckless operation of a personal watercraft. See Section 6.31, below, for more information on reckless operation of a personal watercraft.

## 6.14 Reckless Operation of Vessels

MCL 324.80147(1) states:\*

“If a person carelessly and heedlessly operates a vessel upon the waters of this state in disregard of the rights or safety of others, without due caution and circumspection, or at a rate of speed or in a manner that endangers or is likely to endanger a person or property, that person is guilty of reckless operation of a vessel and is subject to the penalties described in subsection (3).”

A person convicted of violating MCL 324.80147(1) is guilty of a misdemeanor punishable by:

- imprisonment for not more than 90 days;
- fine of not more than \$500.00; or
- both.

MCL 324.80171 and MCL 750.504.

In addition, the court may order that the defendant not operate a vessel on the waters of this state for a period of not more than two years. MCL 324.80147(3) and MCL 324.80171. In addition to the penalties already provided, if the conviction is a second or subsequent conviction, “the court shall order that person to participate in and complete a marine safety educational program approved by the [DNR].” MCL 324.80147(3).

\*MCL 324.80147(2) establishes the offense of reckless operation by a person being towed on water skis, a water sled, a surfboard, or a similar contrivance. See Section 6.16, below.

## 6.15 Rocking and Jostling of Vessels

The Marine Safety Act prohibits standing in vessels and rocking, jostling, or tipping of vessels. MCL 324.80153 states:

“Any occupant or operator of any vessel under way on the waters of this state shall not sit, stand, or walk upon any portion of the vessel not specially designed for that purpose, except when immediately necessary for the safe and reasonable navigation or operation of the vessel.”

MCL 324.80154 states:

“A person not in a boat shall not intentionally rock, tip, jostle, or otherwise interfere with the operation of any vessel, except under supervised training.”

A person who violates either of the above-enumerated statutes is guilty of a misdemeanor punishable by:

- imprisonment for not more than 90 days;
- fine of not more than \$500.00; or
- both.

MCL 324.80171 and MCL 750.504.

## 6.16 Waterskiing Requirements

MCL 324.80147(2) and (3) state:

“(2) If a person, while being towed on water skis, a water sled, a surfboard, or a similar contrivance upon the waters of this state, carelessly and heedlessly navigates, steers, or controls himself or herself in disregard of the rights or safety of others or without due caution and circumspection and in a manner that endangers or is likely to endanger a person or property, then that person is guilty of reckless operation of the contrivance that he or she controls and is subject to the penalties described in subsection (3).

“(3) Upon a person’s conviction under this section, the court may issue an order prohibiting that person from operating a vessel on the waters of this state for a period of not more than 2 years. Upon a person’s subsequent conviction under this section, the court shall order that person to participate in and complete a marine safety educational program approved by the [DNR]. An order issued



pursuant to this subsection is in addition to any other penalty authorized under this part.”

MCL 324.80151 establishes the time periods when a person may not be towed on water skis. It states:

“An operator of any vessel shall not have in tow or otherwise be assisting in the propulsion of a person on water skis or on a water sled, surfboard, or other similar contrivance during the period of 1 hour after sunset to 1 hour prior to sunrise. Any person permitting himself or herself to be towed on water skis or on a water sled, surfboard, or similar contrivance in violation of this part is guilty of a misdemeanor.”

All vessels that are towing water-skiers are required to have a person in the back of the tow vessel. MCL 324.80152(1)–(3) state:

“(1) [A] person shall not operate a vessel on the waters of this state if he or she is towing or otherwise assisting a person on water skis or on a water sled, aquaplane, surfboard, or other similar contrivance unless a person capable of communicating to the vessel operator the condition and needs of the person being towed or assisted is on board the vessel and positioned to observe the person being towed or assisted.

“(2) Subsection (1) does not apply to vessels used by duly constituted ski schools in the giving of instructions or to vessels used in sanctioned ski tournaments, competitions, expositions, or trials. Vessels described in this subsection shall be equipped with a 170-degree wide-angle rearview mirror affixed in a manner that will permit the operator to observe the progress of the person being towed.

“(3) This section does not apply to motorboats less than 16 feet in length actually operated by the person being towed and so constructed as to be incapable of carrying the operator in or on the motorboat.”

**Note:** The exemption described in MCL 324.80152(3), above, applies to the very unusual vessel that can be operated by remote control by the water-skier. MCL 324.80152(4) provides an additional exemption for a vessel operator who is towing a person who is preparing for a water-ski tournament.

A person who violates MCL 324.80152 is guilty of a misdemeanor punishable by:

- imprisonment for not more than 90 days;
- fine of not more than \$500.00; or

- both.

MCL 324.80171 and MCL 750.504.

## 6.17 Underwater Diving Requirements

A person diving underwater with a diving suit or a mechanical diving device is required to mark the area. MCL 324.80155 states:

“Any person diving or submerging in any of the waters of this state with the aid of a diving suit or other mechanical diving device shall place a buoy or boat in the water at or near the point of submergence. The buoy or boat shall bear a red flag not less than 14 inches by 16 inches with a 3½ inch white stripe running from 1 upper corner to a diagonal lower corner. The flag shall be in place only while actual diving operations are in progress. A vessel shall not be operated within 200 feet of a buoyed diver’s flag unless it is involved in tendering the diving operation. A person diving shall stay within a surface area of 100 feet of the diver’s flag.”

A person who violates this section is guilty of a misdemeanor punishable by:

- imprisonment for not more than 90 days;
- fine of not more than \$500.00; or
- both.

MCL 324.80171 and MCL 750.504.

## 6.18 Failure to Report Accidents or Give Assistance at Accidents

**Giving assistance.** Operators of vessels involved in accidents are required to give assistance to injured persons. MCL 324.80133 states:

“(1) The operator of a vessel involved in a collision, accident, or other casualty, and the operator of any other vessel, to the extent that he or she can do so without serious danger to his or her own vessel, crew, and passengers, shall render reasonable assistance to a person affected by the collision, accident, or other casualty, including the transporting of the injured person to a physician or surgeon for medical or surgical treatment, if it is apparent that treatment is necessary or when requested by the injured person.

“(2) A person who complies with subsection (1), or who gratuitously and in good faith renders assistance at the scene of a

vessel collision, accident, or other casualty without objection of the person assisted, is not liable for civil damages as a result of the rendering of assistance, or for an act or omission in providing or arranging towage, medical treatment, or other assistance, if the assisting person acts as an ordinary, reasonably prudent person would have acted under the same or similar circumstances.”

Violation of MCL 324.80133 is a misdemeanor punishable by:

- imprisonment for not more than 90 days;
- fine of not more than \$500.00; or
- both.

MCL 324.80171 and MCL 750.504.

**Failure to report an accident.** Operators of vessels involved in accidents must report the accident. MCL 324.80135 states:

“(1) In the case of collision, accident, or other casualty involving a vessel, the operator shall report the collision, accident, or other casualty to the nearest peace officer, state police post, or the sheriff of the county in which the collision, accident, or other casualty occurred.

“(2) A report of a collision, accident, or other casualty involving a vessel that is made to a peace officer other than the sheriff of the county in which the collision, accident, or other casualty occurred shall be reported without delay by the peace officer to the sheriff of the county in which the collision, accident, or other casualty occurred.”

A person who violates MCL 324.80135 is guilty of a misdemeanor punishable by:

- imprisonment for not more than 90 days;
- fine of not more than \$500.00; or
- both.

MCL 324.80171 and MCL 750.504.

\*The requirements of MCL 324.80133 are outlined above.

**Failure to report an accident involving serious impairment of a body function or death.** MCL 324.80134a(1) states:

“The operator of a vessel who knows or who has reason to believe that he or she has been involved in an accident resulting in serious impairment of a body function or death of a person shall immediately stop his or her vessel at the scene of the accident and shall remain there until the requirements of [MCL 324.80133\*] and [MCL 324.80134] are fulfilled.”

MCL 324.80134 requires an operator to stop and give specified information. MCL 324.80134 states:

“In the case of collision, accident, or other casualty involving a vessel, the operator shall stop his or her vessel and give his or her name and address and identification of his or her vessel, and the name and address of the owner of the vessel if he or she is not the operator, to the operator or occupants of any other vessel involved or to the owner or his or her agents of any property damaged by the accident.”

“Serious impairment of a body function” includes, but is not limited to, one or more of the following:

- “(a) Loss of a limb or loss of use of a limb.
- “(b) Loss of a foot, hand, finger, or thumb or loss of use of a foot, hand, finger, or thumb.
- “(c) Loss of an eye or ear or loss of use of an eye or ear.
- “(d) Loss or substantial impairment of a bodily function.
- “(e) Serious visible disfigurement.
- “(f) A comatose state that lasts for more than 3 days.
- “(g) Measurable brain or mental impairment.
- “(h) A skull fracture or other serious bone fracture.
- “(i) Subdural hemorrhage or subdural hematoma.
- “(j) Loss of an organ.” MCL 324.80134a(4) and MCL 257.58c.

A person convicted of failure to report an accident involving serious impairment of a body function is guilty of a felony punishable by:

- imprisonment for not more than five years;
- fine of not more than \$5,000.00; or

- both.

MCL 324.80134a(2).

A person convicted of failure to report an accident involving death is guilty of a felony punishable by:

- imprisonment for not more than 15 years;
- fine of not more than \$10,000.00; or
- both.

MCL 324.80134a(3).

**Note:** See Rules 281.1221 to 281.1226 for more detailed requirements regarding accident reports.

## 6.19 Careless or Reckless Operation of a Vessel Causing Death

MCL 324.80172 states:

“A person who, by the operation of any vessel at an immoderate rate of speed or in a careless, reckless, or negligent manner, but not willfully or wantonly, injures so as to cripple or cause death of another is guilty of a misdemeanor, and shall be imprisoned for not more than 2 years, or fined not more than \$2,000.00, or both.”

MCL 324.80173 states:

“A person who operates any vessel carelessly and heedlessly in willful and wanton disregard of the rights or safety of others, or without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property and thereby injures so as to cripple any person, but not causing death, is guilty of the offense of felonious operation, and shall be imprisoned for not more than 2 years, or fined not more than \$2,000.00, or both.”

## 6.20 Operation of Vessels While Intoxicated or Impaired

Due to changes in the law, the acronyms for drunk driving offenses have changed. Previously, operating while visibly impaired was referred to as OWI. The new acronym for operating while visibly impaired is OWVI. Previously, operating while under the influence of intoxicating liquor, operating with an unlawful blood alcohol content, and operating under the

influence of a controlled substance were referred to as OUIL, UBAC, and OUID respectively. The new acronym for all three of these offenses is OWI.

## **A. Introduction**

The statutory provisions dealing with the operation of vessels while intoxicated or impaired are contained in MCL 324.80176 to MCL 324.80195. They are:

- MCL 324.80176—Elements of OWI and OWVI.
- MCL 324.80177—Penalties for OWI 1st, 2nd, and 3rd offense.
- MCL 324.80178—Penalties for OWVI 1st, 2nd, and 3rd offense.
- MCL 324.80179—Required notice on complaint and information when prosecutor intends to seek an enhanced sentence.
- MCL 324.80180—Arrest powers of peace officers and procedures for administering preliminary chemical breath analysis tests (PBTs).
- MCL 324.80181—Procedures for administering chemical tests of a person's blood, urine, or breath.
- MCL 324.80182—Procedures for administering chemical tests of blood at hospitals following an accident.
- MCL 324.80183—Evidence of intoxication that is admissible at trial.
- MCL 324.80184—Statutory presumptions following chemical tests of blood, urine, or breath.
- MCL 324.80185—Required advice to defendants at guilty pleas, and required substance abuse screening prior to sentencing.
- MCL 324.80186—Court-ordered suspensions of operating privileges.
- MCL 324.80187—Implied consent provisions requiring operators to submit to chemical tests of blood, urine, or breath.
- MCL 324.80188—Court orders for chemical tests if a person refuses to consent to a chemical test.
- MCL 324.80189—Required notice to Secretary of State when an operator refuses to submit to a chemical test.
- MCL 324.80190 to MCL 324.80195—Procedures at Secretary of State administrative hearings to decide whether a person's right to operate a vessel should be suspended.

Many of these statutory sections will be discussed in more detail in the following subsections.

## **B. Operating a Vessel While Under the Influence of Intoxicating Liquor or Controlled Substance (OWI)**

### **1. Statute**

MCL 324.80176(1) states:

“A person shall not operate a vessel on the waters of this state if either of the following applies:

“(a) The person is under the influence of intoxicating liquor or a controlled substance, or both.

“(b) The person has a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.”

### **2. Penalties**

MCL 324.80185(2) requires the court to order an alcohol assessment prior to sentencing a person convicted of OWI. MCL 324.80185(2) states:

“Before imposing sentence, other than court-ordered operating sanctions, for a violation of [MCL 324.80176(1), (3), (4), or (5)] or a local ordinance substantially corresponding to [MCL 324.80176](1) or (3), the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education or treatment programs. As part of the sentence, the court may order the person to participate in and successfully complete 1 or more appropriate rehabilitative programs. The person shall pay for the costs of the screening, assessment, and rehabilitative services.”

**First offense.** A person who is convicted of violating MCL 324.80176(1) is guilty of a misdemeanor punishable by one or more of the following:

- community service for not more than 45 days;
- imprisonment for not more than 93 days;
- fine of not less than \$100.00 or more than \$500.00.

MCL 324.80177(1)(a)(i)–(iii).

**Second offense.** A person who is convicted of violating MCL 324.80176(1) and the violation occurred within seven years of a prior conviction shall be sentenced to a fine of not less than \$200.00 or more than \$1,000.00, and either community service (with discretionary imprisonment) or a term of imprisonment (with discretionary community service). Specifically, MCL 324.80177(1)(b) states:

“If the violation occurs within 7 years of a prior conviction, the person shall be sentenced to both a fine of not less than \$200.00 or more than \$1,000.00 and either of the following:

“(i) Community service for not less than 10 days or more than 90 days, and may be imprisoned for not more than 1 year.

“(ii) Imprisonment for not less than 48 consecutive hours or more than 1 year, and may be sentenced to community service for not more than 90 days.”

MCL 324.80177(2) states:

“A term of imprisonment imposed under [MCL 324.80177(1)(b)(ii)] shall not be suspended. A person sentenced to perform service to the community under this section shall not receive compensation and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person’s activities in that service.”

**Prior convictions.** “As used in [MCL 324.80177], ‘prior conviction’ means a conviction for a violation of any of the following:

“(a) Section 80176(1), (4), or (5).\*

“(b) Former section 171(1), (4), or (5) of the marine safety act.

“(c) Former section 73 of the marine safety act.

“(d) A local ordinance substantially corresponding to section 80176(1) or former section 73 of the marine safety act.

“(e) A law of another state substantially corresponding to section 80176(1), (4), or (5) or former section 73 of the marine safety act.”  
MCL 324.80177(5).

**Third or subsequent offense.** A person who is convicted of violating MCL 324.80176(1) and the violation occurred within ten years of two or more prior convictions is guilty of a felony punishable by:

- imprisonment for not less than one year or more than five years;

\*See Sections 6.20(E) and (F), below, for a summary of sections 80176 (4) and (5).



- fine of not less than \$500.00 or more than \$5,000.00; or
- both.

MCL 324.80177(1)(c).

### **3. Reimbursement to State or Local Governments**

The court may order a person convicted of OWI to “reimburse the state or a local unit of government for expenses incurred in relation to that incident including but not limited to expenses for an emergency response and expenses for prosecuting the person[.]” MCL 769.1f(1)(f).

### **4. Costs of Prosecution**

In addition, the court may order the defendant to pay the costs of prosecution. MCL 324.80177(3).

## **C. Knowingly Allowing Another to Operate a Vessel While Under the Influence of Intoxicating Liquor and/or a Controlled Substance**

MCL 324.80176(2) states:

“The owner of a vessel or a person in charge or in control of a vessel shall not authorize or knowingly permit the vessel to be operated on the waters of this state by a person who is under the influence of intoxicating liquor or a controlled substance, or both, or who has a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.”

A person convicted of violating MCL 324.80176(2) is guilty of a misdemeanor punishable by:

- imprisonment for not more than 93 days;
- fine of not less than \$100.00 or more than \$500.00; or
- both.

MCL 324.80177(4).

## D. Operating a Vessel While Visibly Impaired (OWVI)

### 1. Statute

MCL 324.80176(3) states:

“A person shall not operate a vessel on the waters of this state when, due to the consumption of an intoxicating liquor or a controlled substance, or both, the person’s ability to operate the vessel is visibly impaired.”

### 2. Penalties

MCL 324.80185(2) requires the court to order an alcohol assessment prior to sentencing a person convicted of OWVI. MCL 324.80185(2) states:

“Before imposing sentence, other than court-ordered operating sanctions, for a violation of [MCL 324.80176(1), (3), (4), or (5)] or a local ordinance substantially corresponding to [MCL 324.80176](1) or (3), the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education or treatment programs. As part of the sentence, the court may order the person to participate in and successfully complete 1 or more appropriate rehabilitative programs. The person shall pay for the costs of the screening, assessment, and rehabilitative services.”

**First offense.** A person convicted of violating MCL 324.80176(3) is guilty of a misdemeanor punishable by one or more of the following:

- community service for not more than 45 days;
- imprisonment for not more than 93 days;
- fine of not more than \$300.00.

MCL 324.80178(1)(a)(i)–(iii).

**Second offense.** A person who is convicted of violating MCL 324.80176(3) and the violation occurred within seven years of a prior conviction shall be sentenced to a fine of not less than \$200.00 or more than \$1,000.00, and either community service (with discretionary imprisonment) or a term of imprisonment (with discretionary community service). Specifically, MCL 324.80178(1)(b) states:

“If the violation occurs within 7 years of 1 prior conviction, the person shall be sentenced to both a fine of not less than \$200.00 or more than \$1,000.00, and either of the following:

“(i) Community service for not less than 10 days or more than 90 days, and may be sentenced to imprisonment for not more than 1 year.

“(ii) Imprisonment for not more than 1 year, and may be sentenced to community service for not more than 90 days.”

MCL 324.80178(4) provides that as used in MCL 324.80178 a “prior conviction” means a conviction for any of the following:

“(a) Section 80176(1), (3), (4), or (5).\*

“(b) Former section 171(1) of the marine safety act.

“(c) Former section 73 of the marine safety act.

“(d) Former section 73b of the marine safety act.

“(e) A local ordinance substantially corresponding to section 80176(1), former section 73 of the marine safety act, or former section 73b of the marine safety act.

“(f) A law of another state substantially corresponding to section 80176(1), (3), (4), or (5), former section 73 of the marine safety act, or former section 73b of the marine safety act.”

\*See Sections 6.20(B), (E), and (F) for a summary of these sections.

**Third or subsequent offense.** A person who is convicted of violating MCL 324.80176(3) and the violation occurred within ten years of two or more prior convictions shall be sentenced to a fine of not less than \$200.00 or more than \$1,000.00, and either community service (with discretionary imprisonment) or a term of imprisonment (with discretionary community service). Specifically, MCL 324.80178(1)(c) states:

“If the violation occurs within 10 years of 2 or more prior convictions, the person shall be sentenced to both a fine of not less than \$200.00 or more than \$1,000.00, and either of the following:

“(i) Community service for a period of not less than 10 days or more than 90 days, and may be sentenced to imprisonment for not more than 1 year.

“(ii) Imprisonment for not more than 1 year, and may be sentenced to community service for not more than 90 days.”

### 3. Costs of Prosecution

In addition, the court may order the defendant to pay the costs of prosecution. MCL 324.80178(2).

#### 4. Reimbursement to State or Local Governments

The court may order a person convicted of OWVI to “reimburse the state or a local unit of government for expenses incurred in relation to that incident including but not limited to expenses for an emergency response and expenses for prosecuting the person[.]” MCL 769.1f(1)(f).

#### E. Operating While Intoxicated and Causing Death

MCL 324.80176(4) states:

“A person who operates a vessel on the waters of this state under the influence of intoxicating liquor or a controlled substance, or both, or with a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, and by the operation of that vessel causes the death of another person is guilty of a felony, punishable by imprisonment for not more than 15 years, or a fine of not less than \$2,500.00 or more than \$10,000.00, or both.”

MCL 324.80185(2) requires the court to order an alcohol assessment prior to sentencing a person convicted of OWI causing death. MCL 324.80185(2) states:

“Before imposing sentence, other than court-ordered operating sanctions, for a violation of [MCL 324.80176(1), (3), (4), or (5)] or a local ordinance substantially corresponding to [MCL 324.80176](1) or (3), the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education or treatment programs. As part of the sentence, the court may order the person to participate in and successfully complete 1 or more appropriate rehabilitative programs. The person shall pay for the costs of the screening, assessment, and rehabilitative services.”

**Reimbursement to state or local governments.** The court may order a person convicted of OWI causing death to “reimburse the state or a local unit of government for expenses incurred in relation to that incident including but not limited to expenses for an emergency response and expenses for prosecuting the person[.]” MCL 769.1f(1)(f).

**Note:** A person may be charged with and convicted of MCL 324.80176(4) for each death arising out of the same criminal transaction, and the court may order the terms of imprisonment to be served consecutively to each other. MCL 769.36(1)(c).

## **F. Operating a Vessel While Intoxicated and Causing Serious Impairment of a Body Function**

### **1. Statute**

MCL 324.80176(5) states:

“A person who operates a vessel on the waters of this state under the influence of intoxicating liquor or a controlled substance, or both, or with a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, and by the operation of that vessel causes a serious impairment of a body function of another person is guilty of a felony . . . . As used in this subsection, ‘serious impairment of a body function’ includes, but is not limited to, 1 or more of the following:

“(a) Loss of a limb or use of a limb.

“(b) Loss of a hand, foot, finger, or thumb or use of a hand, foot, finger, or thumb.

“(c) Loss of an eye or ear or use of an eye or ear.

“(d) Loss or substantial impairment of a bodily function.

“(e) Serious visible disfigurement.

“(f) A comatose state that lasts for more than 3 days.

“(g) Measurable brain damage or mental impairment.

“(h) A skull fracture or other serious bone fracture.

“(i) Subdural hemorrhage or subdural hematoma.”

### **2. Penalty**

A person found guilty of violating MCL 324.80176(5) is guilty of a felony punishable by:

- imprisonment for not more than five years;
- fine of not less than \$1,000.00 or more than \$5,000.00; or
- both.

MCL 324.80176(5).

MCL 324.80185(2) requires the court to order an alcohol assessment prior to sentencing a person convicted of OWI causing serious impairment of a body function. MCL 324.80185(2) states:

“Before imposing sentence, other than court-ordered operating sanctions, for a violation of [MCL 324.80176(1), (3), (4), or (5)] or a local ordinance substantially corresponding to [MCL 324.80176](1) or (3), the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education or treatment programs. As part of the sentence, the court may order the person to participate in and successfully complete 1 or more appropriate rehabilitative programs. The person shall pay for the costs of the screening, assessment, and rehabilitative services.”

### **3. Reimbursement to State or Local Governments**

The court may order a person convicted of OWI causing serious impairment of a body function to “reimburse the state or a local unit of government for expenses incurred in relation to that incident including but not limited to expenses for an emergency response and expenses for prosecuting the person[.]” MCL 769.1f(1)(f).

## **G. Statutory Presumptions Following Chemical Tests of Blood, Urine, or Breath**

MCL 324.80184 states:

“(1) Except in a prosecution relating solely to a violation of [MCL 324.80176(1)(b)], the amount of alcohol in the operator’s blood at the time alleged as shown by chemical analysis of the person’s blood, urine, or breath gives rise to the following presumptions:

“(a) If at the time defendant had an alcohol content of 0.07 grams or less per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, it shall be presumed that the defendant’s ability to operate a vessel was not impaired due to the consumption of intoxicating liquor and that the defendant was not under the influence of intoxicating liquor.

“(b) If at the time defendant had an alcohol content of more than 0.07 grams but less than 0.10 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, it shall be presumed that the defendant’s ability to operate a vessel was impaired within the provisions of

[MCL 324.80176(3)] due to the consumption of intoxicating liquor.

“(c) If at the time defendant had an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, it shall be presumed that the defendant was under the influence of intoxicating liquor.

“(2) A person’s refusal to submit to a chemical test as provided in [MCL 324.80181] and [MCL 324.80182] is admissible in a criminal prosecution for a crime described in [MCL 324.80187(1)] only for the purpose of showing that a test was offered to the defendant, but not as evidence in determining innocence or guilt of the defendant. The jury shall be instructed accordingly.”

## **H. Suspension of Operating Privileges for Refusing to Submit to a Chemical Test**

MCL 324.80189 and MCL 324.80190 are the statutory sections dealing with the administrative hearing requirements following a person’s refusal to submit to a chemical test of his or her blood, urine, or breath.

If a person unreasonably refuses to submit to a chemical test, the Secretary of State shall suspend that person’s right to operate a vessel for the following periods of time:

- Six months for the first refusal.
- One year for a second or subsequent refusal within seven years.

MCL 324.80190(1) and (4).

## **I. Court–Ordered Suspensions of Operating Privileges**

MCL 324.80186 states:

“(1) Immediately upon acceptance by the court of a plea of guilty or nolo contendere or upon entry of a verdict of guilty for a violation of [MCL 324.80176](1), (3), (4), or (5) or a local ordinance substantially corresponding to section 80176(1) or (3), whether or not the person is eligible to be sentenced as a multiple offender, the court shall consider all prior convictions currently entered upon the boating record of the person or other evidence of prior convictions established under [MCL 324.80179], except those convictions that, upon motion by the defendant, are determined by the court to be constitutionally invalid, and shall impose the following sanctions:

“(a) For a conviction under [MCL 324.80176](4) or (5), the court shall order with no expiration date that the person not operate a vessel on the waters of this state.

“(b) For a conviction under [MCL 324.80176](1) or a local ordinance substantially corresponding to [MCL 324.80176](1):

(i) If the court finds that the person has no prior convictions within 7 years for a violation of section 80176(1), (3), (4), or (5), former section 171(1), (3), (4), or (5), or another boating substance abuse offense, or that the person has 1 prior conviction within 7 years for a violation of section 80176(3); former section 171(3) of the marine safety act; former section 73b of the marine safety act; a local ordinance substantially corresponding to section 80176(3) or former section 73b of the marine safety act; or a law of another state substantially corresponding to section 80176(3) or former section 73b of the marine safety act, the court may order that the person not operate a vessel on the waters of this state for not less than 1 year or more than 2 years.

(ii) If the court finds that the person has 1 or more prior convictions within 7 years for a violation of section 80176(1), (3), (4), or (5); former section 73 of the marine safety act; a local ordinance substantially corresponding to section 80176(1) or former section 73 of the marine safety act; or a law of another state substantially corresponding to section 80176(1), (4), or (5) or former section 73 of the marine safety act, the court shall order that the person not operate a vessel on the waters of this state for not less than 2 years.

(iii) If the court finds that the person has 2 or more prior convictions within 10 years for a violation of section 80176(1), (3), (4), or (5) or former section 171(1), (3), (4), or (5) or another boating substance abuse offense, the court shall order with no expiration date that the person not operate a vessel on the waters of this state.

“(c) For a conviction under [MCL 324.80176](3) or a local ordinance substantially corresponding to [MCL 324.80176](3):

(i) If the court finds that the convicted person has no prior conviction within 7 years for a violation of section 80176(1), (3), (4), or (5) or former section



171(1), (3), (4), or (5) or another boating substance abuse offense, the court may order that the person not operate a vessel on the waters of this state for not less than 6 months or more than 1 year.

(ii) If the court finds that the person has 1 prior conviction within 7 years for a violation of section 80176(1), (3), (4), or (5) or former section 171(1), (3), (4), or (5) or another boating substance abuse offense, the court shall order that the person not operate a vessel on the waters of this state for not less than 1 year or more than 2 years.

(iii) If the court finds that the person has 2 or more prior convictions within 10 years for a violation of section 80176(1), (3), (4), or (5) or former section 171(1), (3), (4), or (5) or another boating substance abuse offense, the court shall order with no expiration date that person not to operate a vessel on the waters of this state.

“(2) As used in this section, ‘another boating substance abuse offense’ means former section 73 or 73b of the marine safety act, a local ordinance substantially corresponding to [MCL 324.80176](1) or (3) or former section 73 or 73b of the marine safety act, or a law of another state substantially corresponding to [MCL 324.80176](1), (3), (4), or (5) or former section 73 or 73b of the marine safety act.”

The following chart summarizes the lengths of times for these suspensions.

**Chart 6.20(I)—Court-Ordered Suspensions of Operating Privileges**

Name of Offense	Length of Time of Suspension Order	Statutory Reference
OWI—first offense	May be suspended not less than 1 year or more than 2 years.	MCL 324.80186(1)(b)(i)
OWI—second offense (exception noted below)	Shall be suspended not less than 2 years.	MCL 324.80186(1)(b)(ii)
OWI —third or subsequent offense	Shall be suspended without an expiration date.	MCL 324.80186(1)(b)(iii)
OWVI—first offense	May be suspended not less than 6 months or more than 1 year.	MCL 324.80186(1)(c)(i)
OWVI—second offense	Shall be suspended not less than 1 year or more than 2 years.	MCL 324.80186(1)(c)(ii)

Name of Offense	Length of Time of Suspension Order	Statutory Reference
OWVI—third or subsequent offense	Shall be suspended without an expiration date.	MCL 324.80186(1)(c)(iii)
OWI causing death or serious impairment of a body function	Shall be suspended without an expiration date.	MCL 324.80186(1)(a)

**Note:** The suspension for OWI second offense listed in the chart does not include a conviction of OWI with a prior conviction of OWVI. If the defendant's prior conviction was for OWVI, then the court may suspend the defendant's license for not less than one year or more than two years. MCL 324.80186(1)(b)(i). For a listing of any of the priors that may be used to enhance a defendant's suspension under MCL 324.80186, see the quoted text of MCL 324.80186, above.

## J. Suspensions of Operating Privileges by the Secretary of State

\*See Section 6.20(I), above.

MCL 324.80191 to MCL 324.80192 are the statutory sections that deal with orders to not operate vessels issued by the Secretary of State. The orders described in these sections are to be issued notwithstanding any orders issued by the courts under MCL 324.80186.\*

MCL 324.80192(3) states:

“(3) The secretary of state shall not terminate an order with no expiration date issued under this part until both of the following occur:

“(a) The later of the following:

(i) The expiration of not less than 1 year after the order was issued.

(ii) The expiration of not less than 5 years after the date of a subsequent issuance of an order with no expiration date occurring within 7 years after the date of a prior order.

“(b) The person meets the requirements of the [DNR].”

## K. Implied Consent Provisions of the Marine Safety Act

MCL 324.80187 states:

“(1) A person who operates a vessel on the waters of this state is considered to have given consent to chemical tests of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance, or both, in his or her blood in all of the following circumstances:

“(a) The person is arrested for a violation of [MCL 324.80176](1), (3), (4), or (5) or a local ordinance substantially corresponding to [MCL 324.80176](1) or (3).

“(b) The person is arrested for negligent homicide, manslaughter, or murder resulting from the operation of a vessel, and the peace officer had reasonable grounds to believe that the person was operating the vessel while impaired by, or under the influence of, intoxicating liquor or a controlled substance, or both, or while having a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

“(2) A person who is afflicted with hemophilia, diabetes, or a condition requiring the use of an anticoagulant under the direction of a physician shall not be considered to have given consent to the withdrawal of blood.

“(3) A chemical test described in subsection (1) shall be administered as provided in [MCL 324.80181] and [MCL 324.80182].”

If a person refuses to submit to a chemical test, the Secretary of State shall order that person to not operate a vessel for six months. If that person has a second or subsequent refusal within seven years, the order shall be for one year. MCL 324.80190(1).

## L. Civil Infraction for Refusing to Submit to a Preliminary Chemical Breath Analysis Test

MCL 324.80180(2)(e) provides that a person who refuses to submit to a preliminary chemical breath analysis test (PBT) upon a lawful request by a peace officer is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$100.00. A peace officer may lawfully request a person take a PBT if the officer “has reasonable cause to believe that a person was operating a vessel on the waters of this state, and that, by the consumption of intoxicating liquor, the person may have affected his or her ability to operate a vessel[.]” MCL 324.80180(2).

MCL 324.80180(2)(c) states:

“The results of a preliminary chemical breath analysis are admissible in a criminal prosecution for a crime described in [MCL 324.80187(1)] or in an administrative hearing solely to assist the court or hearing officer in determining a challenge to the validity of an arrest. This subdivision does not limit the introduction of other competent evidence offered to establish the validity of an arrest.”

## **6.21 Operation of a Vessel After Operating Privileges Have Been Suspended**

### **A. Statute**

MCL 324.80196(1) states, in part:

“A person who is ordered not to operate a vessel on the waters of this state and who has been notified of the order by personal service or first-class mail shall not operate a vessel on the waters of this state. A person shall not knowingly permit a vessel owned by the person to be operated on the waters of this state by a person who is subject to such an order. . . .”

### **B. Penalties**

**First offense.** A person who violates MCL 324.80196(1) is guilty of a misdemeanor punishable by:

- imprisonment for not more than 90 days;
- fine of not more than \$500.00; or
- both.

MCL 324.80196(1)(a).

**Second or subsequent offense.** A person convicted of a second or subsequent violation is guilty of a misdemeanor punishable by:

- imprisonment for not more than one year;
- fine of not more than \$1,000.00; or
- both.

MCL 324.80196(1)(b).

**Impoundment of watercraft.** MCL 324.80197 states:

“(1) When a person is convicted under [MCL 324.80196(1)], the vessel, if it is owned in whole or in part by that person, shall be ordered impounded for not less than 30 or more than 120 days from the date of judgment. An order of impoundment issued pursuant to this subsection is valid throughout the state. Any peace officer may execute the impoundment order. The order shall include the implied consent of the owner of the vessel to the storage for insurance coverage purposes.

“(2) The owner of a vessel impounded pursuant to this section is liable for expenses incurred in the removal and storage of the vessel whether or not the vessel is returned to him or her. The vessel shall be returned to the owner only if the owner pays the expenses for removal and storage. If redemption is not made or the vessel is not returned as provided in this section within 30 days after the time set in the impoundment order for return of the vessel, the vessel shall be considered abandoned.

“(3) Nothing in this section affects the rights of a conditional vendor, chattel mortgagee, or lessor of a vessel registered in the name of another person as owner who becomes subject to this part.”

## **Part C—Special Requirements for Personal Watercraft (PWC)**

### **6.22 Introduction to Personal Watercraft**

In 1998, the Legislature repealed former MCL 324.80143 of the Marine Safety Act, which had contained the requirements for personal watercraft vessels. Former MCL 324.80143 was then replaced by the Personal Watercraft Safety Act, MCL 281.1401 et seq. In 2000, the Legislature repealed the Personal Watercraft Safety Act and placed the language from the former Personal Watercraft Safety Act into Part 802 of the Natural Resources and Environmental Protection Act, MCL 324.80201 et seq. Except as otherwise provided in Part 802, a PWC operator must comply with the Marine Safety Act. MCL 324.80222.

The remaining sections in this part of the chapter discuss the offenses that are contained in Part 802 governing personal watercraft. These offenses have been grouped into the following seven categories:

- Boating safety certificate requirements.
- Age restrictions.

- Equipment requirements and required personal flotation devices.
- Prohibited hours of operation.
- Operation in prohibited areas.
- Operation at greater than no wake speed at prohibited locations.
- Reckless operation of PWC.

All of these categories of offenses are discussed in more detail in Sections 6.25 to 6.31, below.

**Note:** 2004 PA 27 provides that Part 802 of the Natural Resources and Environmental Act, MCL 324.80201 to MCL 324.80222, shall be repealed effective March 23, 2012.

## 6.23 Penalty Provisions for Personal Watercraft

Except as otherwise provided, a person who violates the provisions for personal watercraft is guilty of a misdemeanor punishable by:

- imprisonment for not more than 90 days;
- fine of not more than \$100.00; or
- both.

MCL 324.80219.

In addition, a person who violates the act may be required to participate in and complete a boating safety course. *Id.*

**Minimum state costs and justice system assessment.** MCL 600.8381(4) states:

“Beginning October 1, 2003, when fines and costs are assessed by a judge or district court magistrate, the defendant shall be ordered to pay costs of not less than \$45.00 for each conviction for a serious misdemeanor or a specified misdemeanor or costs of not less than \$40.00 for each conviction for any other misdemeanor or ordinance violation.”

Part 802 does not include any “serious misdemeanors” or “specified misdemeanors.” Thus, the minimum state costs for the offenses discussed in this part of Chapter 6 are not less than \$40.00.

In addition, the minimum state cost must be a condition of probation. MCL 771.3(1)(g).

A justice system fund assessment of \$10.00 shall be ordered in addition to other fines and costs imposed for non-traffic state and municipal civil infractions. MCL 600.8727(4) and MCL 600.8827(4).

**Civil Infractions.** The only three civil infractions in Part 802 are as follows:

- Failure by dealer to advise customers of boating safety courses. MCL 324.80217. See Section 6.25, below.
- Failure by dealer to provide customers with a DNR brochure that contains the regulations for PWC. MCL 324.80218(2). See Section 6.25, below.\*
- Operating a PWC outside of a channel or where aquatic vegetation is visible. MCL 324.80206. See Section 6.29, below.

\*See Part E of this chapter for a copy of the DNR handbook containing the regulations for PWC as described in MCL 324.80218.

## 6.24 Definition of Personal Watercraft

MCL 324.80201(o) states:

“‘Personal watercraft’ means a vessel that meets all of the following requirements:

“(i) Uses a motor-driven propeller or an internal combustion engine powering a water jet pump as its primary source of propulsion.

“(ii) Is designed without an open load carrying area that would retain water.

“(iii) Is designed to be operated by 1 or more persons positioned on, rather than within, the confines of the hull.”

Personal watercraft are more commonly referred to as “jet skis.”

## 6.25 Boating Safety Certificate Requirements

MCL 324.80210 to MCL 324.80218 are the statutory sections dealing with boating safety education programs and boating safety certificate requirements. They provide as follows:

- MCL 324.80210—A person who is required to complete a boating safety course must have a safety certificate in his or her possession when operating a PWC.

\*Additional requirements apply. See Section 6.26, below, for more detailed description of the requirements of MCL 324.80215.

\*See Part E of this chapter for a copy of the DNR handbook containing the regulations for PWC as described in MCL 324.80218.

- MCL 324.80211(1)—The DNR shall establish a comprehensive educational program to advance boating safety for operation of PWC.
- MCL 324.80212(1)—The DNR shall issue boating safety certificates to all persons who successfully complete a boating safety course as described in MCL 324.80211.
- MCL 324.80213(2)—A person who is required to have a boating safety certificate shall display the certificate upon the demand of a peace officer.
- MCL 324.80214—The DNR may modify boating safety certificate requirements for persons engaged in marine events authorized by the DNR or the United States Coast Guard.
- MCL 324.80215—Persons who are 12 years of age or more but less than 14 years must obtain boating safety certificates before operating a PWC.\*
- MCL 324.80217—Dealers of PWC shall advise persons who purchase PWC of boating safety courses in the area. A dealer who violates this section is responsible for a state civil infraction and shall be ordered to pay a civil fine of \$100.00.
- MCL 324.80218—Dealers of PWC shall provide to purchasers of PWC a brochure from the DNR that summarizes the laws and safety features regarding PWC.\* A dealer who violates this section is responsible for a state civil infraction and shall be ordered to pay a civil fine of \$100.00.

MCL 324.80221 states:

“Peace officers shall enforce this part. If a person has received a citation for a violation of a certification requirement prescribed in [MCL 324.80210, MCL 324.80213, or MCL 324.80215], the court shall waive any fine and costs upon receipt, not more than 10 days after the citation is issued, of proof of certification by a law enforcement agency that the person, before the appearance date on the citation, produced a valid boating safety certificate or other certification described in [MCL 324.80216], as applicable, that was valid on the date the violation occurred.”



## 6.26 Age Restrictions

MCL 324.80215 states in part:

“(1) Except as provided in subsections (2) and (3), a person under the age of 14 shall not use a personal watercraft on the waters of this state.

\* \* \*

“(3) A person who is 12 or more and less than 14 years of age may use a personal watercraft on the waters of this state if all of the following circumstances exist:

“(a) The person is accompanied solely by the person’s parent or legal guardian.

“(b) Both the person and the parent or legal guardian have obtained a boating safety certificate.

“(c) The personal watercraft is equipped by the manufacturer with a lanyard-type engine cutoff switch, and the parent or legal guardian has the lanyard attached to his or her person, clothing, or personal flotation device.

“(d) The personal watercraft is designed to carry not less than 2 persons.

“(4) A person who was born after December 31, 1978 shall not operate a personal watercraft upon the waters of this state unless he or she first obtains a boating safety certificate.

\* \* \*

“(6) The owner of a personal watercraft or a person having charge over or control of a personal watercraft shall not authorize or knowingly permit the personal watercraft to be operated in violation of this section.

“(7) This section does not apply to a performer engaged in a professional exhibition or a person preparing to participate or participating in a regatta, race, marine parade, tournament, or exhibition held in compliance with [MCL 324.80164] under a permit issued by the [DNR] and at the time and place specified in the permit.”

MCL 324.80221 provides that if a person receives a citation for a violation of MCL 324.80215, the court shall waive any fine and costs upon receipt of proof of certification, not more than ten days after the citation was issued, by law enforcement that the person produced a boating safety certificate that was

valid on the violation date. The proof must be presented to law enforcement prior to the appearance date on the citation. MCL 324.80221.

MCL 324.80205(5) establishes restrictions on children under seven years of age when they are on board or being towed behind a PWC. It states:

“A person shall not operate a personal watercraft on the waters of this state if a child who is under 7 years of age is on board or being towed behind the personal watercraft unless the child is in the company of his or her parent or guardian or a designee of the parent or guardian.”

A person who violates MCL 324.80215 or MCL 324.80205(5) is guilty of a misdemeanor punishable by:

- imprisonment for not more than 90 days;
- fine of not more than \$100.00; or
- both.

MCL 324.80219. In addition, a person who violates MCL 324.80215 or MCL 324.80205(4) may be required to participate in and complete a boating safety course. MCL 324.80219.

## **6.27 Equipment Requirements and Required Personal Flotation Devices**

The requirements for PWC equipment and use of personal flotation devices are found in MCL 324.80205(1)–(6), which state:

“(1) Until 5 years after the effective date of the 2004 amendatory act that amended this section,\* except as otherwise provided in this section, a person shall not operate a personal watercraft on the waters of this state unless each person riding on or being towed behind the personal watercraft is wearing a type I, type II, or type III personal flotation device as described in R 281.1234 of the Michigan administrative code.

“(2) Beginning 5 years after the effective date of the 2004 amendatory act that amended this section, except as otherwise provided in this section, a person shall not operate a personal watercraft on the waters of this state unless each person 12 years of age or older riding on or being towed behind the personal watercraft is wearing a type I, type II, or type III personal flotation device as described in R 281.1234 of the Michigan administrative code.

\*The effective date of the amendatory act was March 16, 2004.

“(3) Beginning 5 years after the effective date of the 2004 amendatory act that amended this section, a person shall not operate a personal watercraft on the waters of this state unless each person on board or being towed by the personal watercraft who is less than 12 years of age is wearing a type I or type II personal flotation device as described in R 281.1234 of the Michigan administrative code.

“(4) A person shall not operate a personal watercraft on the waters of this state unless each person on board the personal watercraft is wearing a personal flotation device that is not inflatable.

\* \* \*

“(6) While operating a personal watercraft equipped by the manufacturer with a lanyard-type engine cutoff switch on the waters of this state, a person shall have the lanyard attached to his or her person, clothing, or personal flotation device as is appropriate for the personal watercraft.”

**Note:** In addition to the equipment requirements established by statute, PWC are subject to the requirements contained in R 281.1244 of the Michigan Administrative Code. Because they are deemed to be less than 16 feet in length and powered by an in-board engine, they must be equipped with the following: an approved backfire flame arrester, ventilation ducts, a personal flotation device, a muffler, and a fire extinguisher. They are not subject to the lighting requirements in the Rule because they may not be operated at night. See Part D for a quotation of R 281.1244.

## 6.28 Prohibited Hours of Operation

MCL 324.80205(7) states:

“A person shall not operate a personal watercraft on the waters of this state during the period that begins 1 hour before sunset and ends at 8 a.m. As used in this subsection, ‘sunset’ means that time as determined by the national weather service.”

A person who violates MCL 324.80205(7) is guilty of a misdemeanor punishable by:

- imprisonment for not more than 90 days;
- fine of not more than \$100.00; or
- both.

MCL 324.80219. In addition, a person who violates MCL 324.80205(7) may be required to participate in and complete a boating safety course. MCL 324.80219.

## **6.29 Operation of PWC in Prohibited Areas**

MCL 324.80206 states:

“(1) A person shall not operate a personal watercraft in the waters of this state outside of a channel or in an area where aquatic rooted vegetation is visible above the surface of the water in the deltaic wetlands of a lake that is greater than 32 square miles and less than 144 square miles in area.

“(2) A person who violates subsection (1) is responsible for a state civil infraction punishable by a fine of \$25.00.”

## **6.30 Operation of PWC at Greater Than No Wake Speed at Prohibited Locations**

### **A. Statutes**

MCL 324.80209 is the principal statutory section dealing with the operation of PWC at a no wake speed. MCL 324.80209 states:

“(1) Except when traveling at slow--no wake speed perpendicular to the shoreline, a person who operates a personal watercraft on 1 of the Great Lakes that is under the jurisdiction of this state shall maintain a distance of 200 feet from the shoreline.

“(2) Except as provided in subsection (4), a person who operates a personal watercraft or a person who is being towed by a personal watercraft on a water sled, kite, surfboard, parachute, tube, water ski, or similar equipment on the waters of this state shall maintain a distance of not less than 100 feet from a dock, raft, or buoyed or occupied bathing or swimming area, a person in the water or on the water in a personal flotation device, or a vessel moored, anchored, drifting, or sitting in dead water.

“(3) A person who operates a personal watercraft or a person who is being towed by a personal watercraft on a water sled, kite, surfboard, parachute, tube, water ski, or similar equipment on the waters of this state shall maintain a distance of not less than 200 feet from a submerged diver, vessel engaged in underwater diving activities, or a flotation device displaying the international diving insignia.

“(4) Subsection (2) does not apply under either of the following conditions:

“(a) The personal watercraft being operated or the person being towed is proceeding at a slow--no wake speed.

“(b) The personal watercraft being operated or the person being towed is in a navigable channel, canal, river, or stream not otherwise posted.”

In addition to the shoreline areas where travel is limited to no-wake travel, MCL 324.80205(8)–(9) establish two other situations when a PWC must be operated at a slow or no wake speed. MCL 324.80205(8)–(9) state:

“(8) A person operating a personal watercraft on the waters of this state shall not cross within 150 feet behind another vessel, other than a personal watercraft, unless the person is operating the personal watercraft at slow--no wake speed.

“(9) A person shall not operate a personal watercraft on the waters of this state where the water depth is less than 2 feet, as determined by vertical measurement, unless 1 or both of the following circumstances exist:

“(a) The personal watercraft is being operated at slow--no wake speed.

“(b) The personal watercraft is being docked or launched.”

“Slow-no wake” is defined as “the use of a vessel at a very slow speed so that the resulting wake or wash is minimal.” MCL 324.80201(q).

## B. Penalties

A person who violates MCL 324.80209 or MCL 324.80205(8)–(9) is guilty of a misdemeanor punishable by:

- imprisonment for not more than 90 days;
- fine of not less than \$100.00; or
- both.

MCL 324.80219. In addition, a person who violates the above-enumerated statutes may be required to participate in and complete a boating safety course. *Id.*

## 6.31 Reckless Operation of PWC

### A. Statutes

MCL 324.80208(1) states:

“If a person carelessly and heedlessly operates a personal watercraft upon the waters of this state in disregard of the rights or safety of others, without due caution and circumspection, or at a rate of speed or in a manner that endangers or is likely to endanger a person or property, that person is guilty of reckless operation of a personal watercraft and is subject to the penalties described in subsection (2) or (3), or both, as applicable.”

MCL 324.80205(10)–(13) state:

“(10) A person shall operate a personal watercraft in a reasonable and prudent manner. A maneuver that unreasonably or unnecessarily endangers life, limb, or property, including, but not limited to, all of the following, constitutes reckless operation of a personal watercraft under [MCL 324.80208]:

“(a) Weaving through congested vessel traffic.

“(b) Jumping the wake of another vessel unreasonably or unnecessarily close to the other vessel or when visibility around the other vessel is obstructed.

“(c) Waiting until the last possible moment before swerving to avoid a collision.

“(11) A person shall not operate a personal watercraft on the waters of this state carrying more persons than the personal watercraft is designed to carry.

“(12) A violation of subsection (11) is prima facie evidence of reckless operation of a watercraft under [MCL 324.80208].

“(13) A person operating a personal watercraft in excess of the speeds established under part 801 is guilty of reckless operation of a personal watercraft under [MCL 324.80208].”\*

\*See Section 6.13, above, for information on the speeding violations established under Part 801.

### B. Penalties

**First offense.** A person convicted of reckless operation of a personal watercraft is guilty of a misdemeanor punishable by:

- imprisonment for not more than 90 days;

- fine of not more than \$500.00; or
- both.

MCL 324.80208(2) and MCL 324.80219.

**Second offense.** A person who is convicted of reckless driving twice within a three-year period is guilty of a misdemeanor punishable by:

- imprisonment for not more than 90 days;
- fine of not more than \$1,000.00; or
- both.

MCL 324.80208(3).

**Third or subsequent offense.** A person convicted of reckless operation of a personal watercraft three or more times within five years is guilty of a misdemeanor punishable by:

- imprisonment for not more than 90 days;
- fine of not more than \$2,000.00; or
- both.

MCL 324.80208(3).

**Suspension of operating privileges.** Upon conviction of reckless operation of a personal watercraft, the court may also issue an order prohibiting the person from operating a personal watercraft on the waters of this state for a period of not more than two years and shall order the person to participate in and complete a boating safety course. MCL 324.80208(2).

**Impoundment.** Upon a person's second or subsequent conviction of reckless operation of a personal watercraft, the court may issue an order impounding the personal watercraft that the person was operating at the time of the violation for a period of not more than one year, if either of the following conditions exists:

“(a) The person is an owner of the personal watercraft.

“(b) The person is the minor child of an owner of the personal watercraft.”

MCL 324.80208(3)(a)–(b).

## **Part D—DNR Administrative Rules 281.1231 to 281.1252: Required Equipment on Marine Vessels**

### DEPARTMENT OF NATURAL RESOURCES

#### LAW ENFORCEMENT DIVISION

#### ASSOCIATED EQUIPMENT ON VESSELS

(By authority conferred on the commission of natural resources by MCL 281.1018)

#### **R 281.1231 Definitions.**

(1) “Act” means Act No. 303 of the Public Acts of 1967, as amended, being §§281.1001 to 281.1199 of the Michigan Compiled Laws. Terms defined in the act have the same meanings when used in these rules.

(2) “Open boat” means a motorboat with all engine and fuel tank compartments and other spaces to which explosives or flammable gases and vapors from these compartments may flow, open to the atmosphere and so arranged as to prevent the entrapment of gases and vapors within the vessel.

(3) “Point” means 11 1/4 degrees of the compass.

#### **R 281.1232 Applicability.**

These rules apply to vessels and associated equipment used, to be used, or carried in vessels used on any waters within the territorial limits of this state including those waters of the Great Lakes which are under the jurisdiction of this state, except:

(a) Foreign vessels temporarily using waters subject to state jurisdiction.

(b) Military or public vessels of the United States, except recreational-type public vessels.

(c) A vessel whose owner is a state or political subdivision thereof, other than this state and its political subdivisions, which is used principally for governmental purposes, and which is clearly identifiable as such.

(d) A ship’s lifeboat.



**R 281.1233** Navigation lights; intensity standards; placement; screening.

(1) Navigation lights shall be of sufficient intensity so that the candlepower outside the lens is not less than that amount corresponding to the required distance of visibility as indicated in table 1.

TABLE 1

Distance of Visibility in Nautical Miles	Candlepower
1	1.0
2	5.5
3	17.6
5	100.00

(2) As an aid in complying with this rule, the standard double contact bayonet candelabra base lamps listed in table 2 are recommended for motorboats having 6- to 32-volt electrical systems.

TABLE 2

Distance of Visibility in Nautical Miles	Color	Lamp Number for Certain Voltage Systems					
		With Fresnel Lens			Without Fresnel Lens		
6	12	32	6	12	32		
1	Red	82	90	1,226	1,130	1,142	1,230
1	Green	88	94	1,228	--	--	--
2	White	64	68	1,224	82	90	1,226
3	White	82	90	1,226	1,130	1,142	1,230

(3) As an aid in complying with this rule, the incandescent lamps listed in table 3 are recommended for vessels having 115 volt electrical systems.

TABLE 3

Distance of Visibility	Color	Wattage in Nautical Miles	
		With Fresnel Lens	Without Fresnel Lens
1	Red	--	25
1	Green	25	50
2	White	--	15
2	Amber	--	25
2	Red	40	100
2	Green	75	200
3	White	--	25
3	Amber	25	75
5	White	40	100

(4) The light intensity standards of this rule shall apply to new navigation lights installed and replacements of existing lights made on and after January 1, 1973.

(5) Navigation lights required by these rules shall be placed high enough that their light will not be obstructed by persons or parts of the boat or its equipment and shall be screened as indicated in figure 1.

See the Appendix to Part D for a copy of the figures.

#### **R 281.1234 Personal flotation devices.**

(1) Personal flotation devices required by these rules to be carried aboard vessels shall be of the following types:

(a) Type I, an approved device designed to turn an unconscious person in the water from a face downward position to a vertical or slightly backward position, and to have more than 20 pounds of buoyancy.

(b) Type II, an approved device designed to turn an unconscious person in the water from a face down position to a vertical or slightly backward position and to have at least 15.5 pounds of buoyancy.

(c) Type III, an approved device designed to keep a conscious person in a vertical or slightly backward position and to have at least 15.5 pounds of buoyancy.

(d) Type IV, an approved device designed to be thrown to a person in the water and not worn. It is designed to have at least 16.5 pounds of buoyancy.

(2) Personal flotation devices required by these rules to be carried aboard vessels shall be:

(a) Approved by the United States coast guard.

(b) Legibly marked with the approval number issued by the United States coast guard.

(c) Of an appropriate size for the person for whom it is intended.

(d) Readily accessible and immediately available.

(e) In good and serviceable condition.

**R 281.1235 Fire extinguishing equipment.**

(1) All hand portable fire extinguishers, semiportable fire extinguishing systems and fixed fire extinguishing systems required by these rules shall be of a type approved by the United States coast guard.

(2) Hand portable fire extinguishers and semiportable fire extinguishing systems are classified by a combination letter and number symbol. The letter indicating the type of fire which the unit could be expected to extinguish, and the number indicating the relative size of the unit.

(3) For the purpose of these rules, all required hand portable fire extinguishers and semiportable fire extinguishing systems are of the “B” type; that is, suitable for extinguishing fires involving flammable liquids, greases, and so forth.

(4) The number designations for size start with “I” for the smallest to “III” for the largest. Sizes I and II are considered hand portable fire extinguishers and size III is considered a semiportable fire extinguishing system which shall be fitted with a suitable hose and nozzle or other practicable means so that all portions of the space concerned may be covered. Examples of size graduations for some of the typical hand portable fire extinguishers and semiportable fire extinguishing systems are as indicated in table 4.

TABLE 4

Type	Classification Size	Foam Gallons	Carbon Dioxide, Pounds	Dry Chemical Pounds
B	I	1 1/4	4	2
B	II	2 1/2	15	10
B	III	12	35	20

(5) All hand portable fire extinguishers and semiportable fire extinguishing systems shall have permanently attached thereto a metallic nameplate giving the name of the item, the rated capacity in gallons, quarts, or pounds, the name and address of the person or firm for whom approved, and the identifying mark of the actual manufacturer.

(6) Vaporizing liquid-type fire extinguishers containing carbon tetrachloride or chlorobromomethane or other toxic liquids are not acceptable as equipment required by these rules.

(7) Hand portable or semiportable extinguishers which are required on their nameplates to be protected from freezing shall not be located where freezing temperatures may be expected.

(8) A dry chemical, stored pressure, fire extinguisher not fitted with pressure gauge or indicating device, manufactured prior to January 1, 1965, may be carried on motorboats so long as it is maintained in good and serviceable condition. The following maintenance and inspections are required for such an extinguisher:

(a) When the date on the inspection record tag on the extinguisher shows that 6 months have elapsed since the last weight check ashore, the extinguisher is no longer accepted as meeting required maintenance conditions until reweighed ashore and found to be in a serviceable condition and within required weight conditions.

(b) If the weight of the container is 1/4 ounce less than that stamped on the container, it shall be serviced.

(c) If the outer seals, which indicate tampering or use when broken, are not intact, the officer shall inspect the extinguisher to see that the frangible disc in the neck of the container is intact; and if the disc is not intact, the container shall be serviced.

(d) If there is evidence of damage, use, or leakage, such as dry chemical powder observed in the nozzle or elsewhere on the extinguisher, the container shall be replaced and the extinguisher

properly serviced or the extinguisher replaced with another approved extinguisher.

(9) A dry chemical, stored pressure, fire extinguisher without pressure gauge or indicating device manufactured after January 1, 1965, shall not be carried on motorboats as required equipment.

(10) When a fixed fire extinguishing system is installed, it shall be of a carbon dioxide-type approved and installed as required by the United States coast guard.

(11) The intent of these rules is illustrated in figure 2, where fire extinguishers are required if any of the specified conditions exist, and in figure 3, where specified conditions do not, in themselves, require that fire extinguishers be carried.

See the Appendix to Part D for a copy of the figures 2 and 3.

Fire extinguishers are required if any of the following conditions exist:

1. Closed compartment under thwarts and seats where portable fuel tanks may be stored.
2. Double bottoms not sealed to the hull or which are not completely filled with flotation material.
3. Closed living spaces.
4. Closed compartments in which combustible or flammable materials are stored.
5. Permanently installed fuel tanks.

See the Appendix to Part D for a copy of the figures 2 and 3.

The following conditions do not, in themselves, require that fire extinguishers be carried:

1. Bait wells.
2. Glove compartments.
3. Buoyant flotation material.
4. Open slatted flooring.
5. Ice chests.

**R 281.1236 Backfire flame control.**

- (1) Every gasoline engine installed in a motorboat after April 25, 1940, except outboard motors, shall be equipped with an acceptable means of backfire flame control.
- (2) Installations made before November 19, 1952, need not meet the detailed requirements of this rule and may be continued in use as long as they are serviceable and in good condition. Replacements shall meet the applicable conditions in this rule.
- (3) Installations consisting of backfire flame arresters bearing United States coast guard approval no. 162.015 may be continued in use as long as they are serviceable and in good condition. Replacements shall meet the applicable conditions of this rule.
- (4) Installations consisting of engine air and fuel induction systems and given United States coast guard approval no. 162.015 may be continued in use as long as they are serviceable and in good condition. Replacements shall meet the applicable conditions of this rule.
- (5) The following are acceptable means of backfire flame control for gasoline engines:
  - (a) A backfire flame arrester constructed in accordance with specifications of, and approved by, the United States coast guard. The flame arrester shall be suitably secured to the air intake with flame-tight connections.
  - (b) An engine air and fuel induction system which provides adequate protection from propagation of backfire flame to the atmosphere equivalent to that provided by an approved backfire flame arrester. A gasoline engine utilizing an air and fuel induction system, and operated without an approved backfire flame arrester shall have the installation tested and labeled in accordance with the specifications of, and approved by, the United States coast guard.
  - (c) Any attachment to the carburetor or location of the engine air induction system by means of which flames caused by engine backfire will be dispersed to the atmosphere outside the vessel in such a manner that the flames will not endanger the vessel, persons on board or nearby vessels and structures. All attachments shall be of metallic construction with flame-tight connections and firmly secured to withstand vibration, shock, and engine backfire. The installations do not require formal approval and labeling, but will be accepted by state and local law enforcement officers on the basis of compliance with this rule.
  - (d) Where manufacturers wish to produce vessels having an integrated engine-vessel design, a pre-market approval of an

engine air induction system is available. An installation shall be tested and labeled in accordance with the specifications of, and approval by, the United States coast guard.

**R 281.1237 Ventilation.**

(1) All motorboats, except open boats, the construction or decking over of which is commenced after April 25, 1940, and which use fuel having a flash point of 110 degrees Fahrenheit or less, shall have at least 2 ventilator ducts, fitted with cowls or their equivalent, for the efficient removal of explosive or flammable gases from the bilges of every engine and fuel tank compartment. There shall be at least 1 exhaust duct installed so as to extend from the open atmosphere to the lower portion of the bilge and at least 1 intake duct installed so as to extend to a point at least midway to the bilge or at least below the level of the carburetor intake. The cowls shall be located and trimmed for maximum effectiveness and in such a manner so as to prevent displaced fumes from being recirculated.

(2) Where alterations are needed for existing motorboats to comply with the requirements in this rule, the alterations shall be accomplished as soon as practicable and shall be completed by June 1, 1975.

**R 281.1238 Mufflers; cut outs.**

The exhaust of all internal combustion engines used on any waters of this state shall be muffled effectively by equipment so constructed and used as to muffle the noise of the exhaust of the engine in a reasonable manner. The use of cut outs, bypasses, or similar devices is prohibited, except for vessels competing in a boat race or regatta sanctioned by the department under sections 151 and 152 of the act. A modern device, underwater exhaust system or a system discharging cold water through the exhaust of an inboard engine, each of which is capable of muffling the noise of the exhaust of the engine in a reasonable manner, shall be considered as meeting the requirements of this rule.

**R 281.1239 Associated equipment carriage requirements.**

Associated equipment required by these rules to be carried aboard vessels are minimum and listed in R. 281.1240 to R. 281.1252 by type and length of vessel and by type of propulsion. A person shall not operate a vessel on waters of this state unless equipped in accordance with these rules.

## OUTBOARD MOTORBOATS

### R 281.1240 Less than 16 feet in length.

An outboard motorboat less than 16 feet in length shall be equipped as follows:

(a) If the motorboat is not an open boat, it shall be equipped with 2 ducts fitted with cowls or their equivalent as specified in R. 281.1237.

(b) One type I, II, III, or IV coast guard-approved personal flotation device as specified in R. 281.1234 in good and serviceable condition, for each person aboard. The devices shall be ready at hand and not encased in plastic bags or other type containers.

(c) If the motorboat is constructed so that it has decking or compartments where explosive or flammable gases may be entrapped as illustrated in figure 2,\* it shall be equipped with 1 BI-type coast guard approved fire extinguisher in good and serviceable condition and as specified in R. 281.1235. When a fixed fire extinguishing system is installed in the machinery space, 1 less BI-type fire extinguisher is required.

(d) If underway between sunset and sunrise, the motorboat shall be equipped with an exhibit 1 white light aft higher than the bowlight showing all around the horizon and visible 2 miles and a combination 20 point bowlight forward, showing green to starboard and red to port, visible 1 mile or in lieu of this requirement may display lights as specified by the international rules of the road.

(e) If the motorboat is anchored between sunset and sunrise on the Great Lakes or waters connected thereto and not in a special anchorage area a white light shall be displayed on the forward part of the motorboat so as to be visible to a boat approaching from any direction.

(f) All lights shall be as specified by R. 281.1233.

(g) A muffler as specified by R. 281.1238 for each motor.

\*See the Appendix to Part D for a copy of figure 2.



**R 281.1241 Sixteen feet or over and less than 26 feet in length.**

An outboard motorboat 16 feet or over and less than 26 feet in length shall be equipped as follows:

- (a) If the motorboat is not an open boat, it shall be equipped with 2 ducts fitted with cowls or their equivalent as specified in R. 281.1237.
- (b) One type I, II, or III coast guard-approved person flotation device as specified in R. 281.1234 in good and serviceable condition, for each person aboard, plus 1 type IV throwable device. The devices shall be ready at hand and not encased in plastic bags or other type containers.
- (c) One hand, mouth, or power-operated whistle, capable or producing a blast of 2 seconds or more in duration, and audible for at least 1/2 mile.
- (d) If the motorboat is constructed so that it has decking or compartments where explosive or flammable gases may be entrapped as illustrated in figure 2,\* it shall be equipped with 1 BI-type coast guard approved fire extinguisher in good and serviceable condition and as specified in R. 281.1235. When a fixed fire extinguishing system is installed in the machinery space, 1 less BI-type fire extinguisher is required.
- (e) If underway between sunset and sunrise, the motorboat shall be equipped with an exhibit 1 white light aft higher than the bowlight showing all around the horizon and visible 2 miles and a combination 20 point bowlight forward, showing green to starboard and red to port visible 1 mile or in lieu of this requirement may display lights as specified by the international rules of the road.
- (f) If the motorboat is anchored between sunset and sunrise on the Great Lakes or waters connected thereto and not in a special anchorage area, a white light shall be displayed on the forward part of the motorboat so as to be visible to a boat approaching from any direction.
- (g) All lights shall be as specified by R. 281.1233.
- (h) A muffler as specified by R. 281.1238 for each motor.

\*See the Appendix to Part D for a copy of figure 2.

**R 281.1242 Twenty-six feet or over and less than 40 feet in length.**

An outboard motorboat 26 feet or over and less than 40 feet in length shall be equipped as follows:

(a) If the motorboat is not an open boat, it shall be equipped with 2 ducts fitted with cowls or their equivalent as specified in R. 281.1237.

(b) One type I, II, or III coast guard-approved personal flotation device as specified in R. 281.1234 in good and serviceable condition, for each person aboard, plus 1 type IV throwable device. The devices shall be ready at hand and not encased in plastic bags or other type containers.

(c) An efficient fog bell which, when struck, produces a clear bell-like tone of full round characteristics.

(d) One hand or power-operated whistle, capable of producing a blast of 2 seconds or more duration and audible for a distance of at least 1 mile.

(e) If the motorboat is constructed so that it has decking or compartments where explosive or flammable gases may be entrapped as illustrated in figure 2,\* it shall be equipped with 2 BI-type coast guard approved hand portable fire extinguishers in good and serviceable condition and as specified in R. 281.1235. One BII-type coast guard-approved fire extinguisher may be substituted for 2 BI types. When a fixed fire extinguishing system is installed in the machinery space, 1 less BI-type fire extinguisher is required.

(f) If underway between sunset and sunrise, the motorboat shall be equipped with an exhibit 1 white light aft higher than the bowlight showing all around the horizon and visible 2 miles, 1 white light forward showing 20 points and visible 2 miles, a green light to starboard showing 10 points and visible 1 mile and a red light to port showing 10 points and visible 1 mile or in lieu of this requirement may display lights as specified by the international rules of the road.

(g) If the motorboat is anchored between sunset and sunrise on the Great Lakes or waters connected thereto and not in a special anchorage area a white light shall be displayed on the forward part of the motorboat so as to be visible to a boat approaching from any direction.

(h) All lights shall be as specified by R. 281.1233.

(i) A muffler as specified by R. 281.1238 for each motor.

\*See the Appendix to Part D for a copy of figure 2.

**R 281.1243 Forty feet or over and not more than 65 feet in length.**

An outboard motorboat 40 feet or over and not more than 65 feet in length shall be equipped as follows:

- (a) If the motorboat is not an open boat, it shall be equipped with 2 ducts fitted with cowls or their equivalent as specified in R. 281.1237.
- (b) One type I, II, or III coast guard-approved personal flotation device as specified in R. 281.1234 in good and serviceable condition, for each person aboard, plus 1 type IV throwable device. The devices shall be ready at hand and not encased in plastic bags or other containers.
- (c) An efficient fog bell which, when struck, produces a clear bell-like tone of full round characteristics.
- (d) One power-operated whistle capable of producing a blast of 2 seconds or more duration, and audible for a distance of at least 1 mile.
- (e) If the motorboat is constructed so that it has decking or compartments where explosive or flammable gases may be entrapped as illustrated in figure 2,\* it shall be equipped with 3 BI-type coast guard-approved hand portable fire extinguishers in good and serviceable condition and as specified in R. 281.1235. One BII-type coast guard-approved fire extinguisher may be substituted for 2 BI types. When a fixed fire extinguishing system is installed in the machinery space, 1 less BI-type fire extinguisher is required.
- (f) If underway between sunset and sunrise, the motorboat shall be equipped with an exhibit 1 white light aft higher than the bowlight showing all around the horizon and visible 2 miles, 1 white light forward showing 20 points and visible 2 miles, a green light to starboard showing 10 points and visible 1 mile and a red light to port showing 10 points and visible 1 mile or in lieu of this requirement may display lights as specified by the international rules of the road.
- (g) If the motorboat is anchored between sunset and sunrise on the Great Lakes or waters connected thereto and not in a special anchorage area a white light shall be displayed on the forward part of the motorboat so as to be visible to a boat approaching from any direction.
- (h) All lights shall be as specified by R. 281.1233.
- (i) A muffler as specified by R. 281.1238 for each motor.

\*See the Appendix to Part D for a copy of figure 2.

**R 281.1244 Less than 16 feet in length.**

An inboard or inboard-outboard motorboat less than 16 feet in length shall be equipped as follows:

- (a) One coast guard-approved backfire flame arrester as specified in R. 281.1236 on each carburetor of all gasoline engines.
- (b) At least 2 ducts fitted with cowls or their equivalent as specified in R. 281.1237.
- (c) One type I, II, III, or IV coast guard-approved personal flotation device as specified in R. 281.1234 in good and serviceable condition for each person aboard. The devices shall be ready at hand and not encased in plastic bags or other containers.
- (d) One BI-type coast guard-approved hand portable fire extinguisher in good and serviceable condition and as specified in R. 281.1235. When a fixed fire extinguishing system is installed in the machinery space, 1 less BI-type fire extinguisher is required.
- (e) If underway between sunset and sunrise, the motorboat shall be equipped with and exhibit 1 white light aft higher than the bowlight showing all around the horizon and visible 2 miles and a combination 20 point bowlight forward, showing green to starboard and red to port visible 1 mile or in lieu of this requirement may display lights as specified by the international rules of the road.
- (f) If the motorboat is anchored between sunset and sunrise on the Great Lakes or waters connected thereto and not in a special anchorage area, a white light shall be displayed on the forward part of the motorboat so as to be visible to a boat approaching from any direction.
- (g) All lights shall be as specified by R. 281.1233.
- (h) A muffler as specified by R. 281.1238 for each motor.

**R 281.1245 Sixteen feet or over and less than 26 feet in length.**

An inboard or inboard-outboard motorboat 16 feet or over and less than 26 feet in length shall be equipped as follows:

- (a) One coast guard-approved backfire flame arrester as specified in R. 281.1236 on each carburetor of all gasoline engines.
- (b) At least 2 ducts fitted with cowls or their equivalent as specified in R. 281.1237.

(c) One type I, II, or III coast guard-approved personal flotation device as specified in R. 281.1234 in good and serviceable condition for each person aboard, plus 1 type IV throwable device. The devices shall be ready at hand and not encased in plastic bags or other containers.

(d) One hand, mouth, or power-operated whistle, capable of producing a blast of 2 seconds or more duration, and audible for at least 1/2 mile.

(e) One BI-type coast guard approved hand portable fire extinguisher in good and serviceable condition and as specified in R. 281.1235. When a fixed fire extinguishing system is installed in the machinery space, 1 less BI-type fire extinguisher is required.

(f) If underway between sunset and sunrise, the motorboat shall be equipped with an exhibit 1 white light aft higher than the bowlight showing all around the horizon and visible 2 miles and a combination 20 point bowlight forward showing green to starboard and red to port visible 1 mile or in lieu of this requirement may display lights as specified by the international rules of the road.

(g) If the motorboat is anchored between sunset and sunrise on the Great Lakes or waters connected thereto and not in a special anchorage area, a white light shall be displayed on the forward part of the motorboat so as to be visible to a boat approaching from any direction.

(h) All lights shall be as specified by R. 281.1233.

(i) A muffler as specified by R. 281.1238 for each motor.

**R 281.1246 Twenty-six feet and over and less than 40 feet in length.**

An inboard or inboard-outboard motorboat 26 feet or over and less than 40 feet in length shall be equipped as follows:

(a) One coast guard-approved backfire flame arrester as specified in R. 281.1236 on each carburetor of all gasoline engines.

(b) At least 2 ducts fitted with cowls or their equivalent as specified in R. 281.1237.

(c) An efficient fog bell which, when struck, produces a clear, bell-like tone of full round characteristics.

(d) One hand or power-operated whistle, capable of producing a blast of 2 seconds or more duration and audible for a distance of at least 1 mile.

(e) One type I, II, or III coast guard-approved personal flotation device as specified in R. 281.1234 in good and serviceable condition for each person aboard, plus 1 type IV throwable device. The devices shall be ready at hand and not encased in plastic bags or other containers.

(f) At least 2 BI-type coast guard-approved hand portable fire extinguishers in good and serviceable condition and as specified in R. 281.1235, one BII-type coast guard-approved fire extinguisher may be substituted for 2 BI types. When a fixed fire extinguishing system is installed in the machinery space, 1 less BI-type fire extinguisher is required.

(g) If underway between sunset and sunrise, the motorboat shall be equipped with an exhibit 1 white light aft higher than the bowlight showing all around the horizon and visible 2 miles, 1 white light forward showing 20 points and visible 2 miles, a green light to starboard showing 10 points and visible 1 mile and a red light to port showing 10 points and visible 1 mile or in lieu of this requirement may display lights as specified by the international rules of the road.

(h) If the motorboat is anchored between sunset and sunrise on the Great Lakes or waters connected thereto and not in a special anchorage area, a white light shall be displayed on the forward part of the motorboat so as to be visible to a boat approaching from any direction.

(i) All lights shall be as specified by R. 281.1233.

(j) A muffler as specified by R. 281.1238 for each motor.

**R 281.1247 Forty feet and over and not more than 65 feet in length.**

An inboard or inboard-outboard motorboat 40 feet or over and not more than 65 feet in length shall be equipped as follows:

(a) One coast guard-approved backfire flame arrester as specified in R. 281.1236 on each carburetor of all gasoline engines.

(b) At least 2 ducts fitted with cowls or their equivalent as specified in R. 281.1237.

(c) An efficient fog bell which, when struck, produces a clear bell-like tone of full round characteristics.

(d) One power-operated whistle, capable of producing a blast of 2 seconds or more duration and audible a distance of at least 1 mile.

(e) One type I, II, or III coast guard-approved personal flotation device as specified in R. 281.1234 in good and serviceable condition for each person aboard, plus 1 type IV throwable device. The devices shall be ready at hand and not encased in plastic bags or other containers.

(f) At least 3 BI-type coast guard-approved hand portable fire extinguishers in good and serviceable condition and as specified in R. 281.1235. One BII-type coast guard-approved fire extinguisher may be substituted for 2 BI types. When a fixed fire extinguishing system is installed in the machinery space, 1 less BI-type fire extinguisher is required.

(g) If underway between sunset and sunrise, the motorboat shall be equipped with an exhibit 1 white light aft higher than the bowlight showing all around the horizon and visible 2 miles, 1 white light forward showing 20 points and visible 2 miles, a green light to starboard 10 points and visible 1 mile and a red light to port showing 10 points and visible 1 mile or in lieu of this requirement may display lights as specified by the international rules of the road.

(h) If the motorboat is anchored between sunset and sunrise on the Great Lakes or waters connected thereto and not in a special anchorage area, a white light shall be displayed on the forward part of the motorboat so as to be visible to a boat approaching from any direction.

(i) All lights shall be as specified by R. 281.1233.

(j) A muffler as specified by R. 281.1238 for each motor.

**R 281.1248 Sailboat without motor, less than 16 feet in length.**

A sailboat without a motor and less than 16 feet in length shall be equipped as follows:

(a) One type I, II, III, or IV coast guard approved personal flotation device as specified in R. 281.1234 in good and serviceable condition for each person aboard. The devices shall be ready at hand and not encased in plastic bags or other containers.

(b) If underway between sunset and sunrise, the sailboat shall be equipped with a lantern showing a white light which shall be ready at hand and which shall be exhibited in sufficient time to prevent collision.

(c) If the sailboat is anchored between sunset and sunrise on the Great Lakes or waters connected thereto and not in a special anchorage area, a white light shall be displayed on the forward part

of the sailboat so as to be visible to a boat approaching from any direction.

**R 281.1249 Sailboat without motor, 16 feet or over in length.**

A sailboat without a motor and 16 feet or over in length shall be equipped as follows:

- (a) One type I, II, III, or IV coast guard approved personal flotation device as specified in R. 281.1234 in good and serviceable condition for each person aboard, plus 1 type IV throwable device. The devices shall be ready at hand and not encased in plastic bags or other containers.
- (b) If underway between sunset and sunrise, the sailboat shall be equipped with a lantern showing a white light which shall be ready at hand and which shall be exhibited in sufficient time to prevent collision.
- (c) If the sailboat is anchored between sunset and sunrise on the Great Lakes or waters connected thereto and not in a special anchorage area, a white light shall be displayed on the forward part of the sailboat so as to be visible to a boat approaching from any direction.

**R 281.1250 Sailboat with motor.**

A sailboat with a motor shall be equipped as follows:

- (a) Personal flotation devices, backfire flame arresters, ventilation ducts and cowls, fire extinguishers, whistles and bells and mufflers, as required by these rules for motorboats of the same length.
- (b) If underway between sunset and sunrise, the sailboat shall be equipped with and exhibit navigation lights as required by these rules for motorboats of the same length, except:
  - (i) A sailboat 26 feet or over in length under sail alone on the Great Lakes and waters connected thereto between sunset and sunrise shall be equipped with and exhibit a green light to starboard showing 10 points and visible 1 mile, a red light to port showing 10 points and visible 1 mile and a lantern showing a white light which shall be ready at hand and which shall be exhibited in sufficient time to prevent collision.
  - (ii) If the sailboat is anchored between sunset and sunrise on the Great Lakes or waters connected thereto and not in a special anchorage area, a white light shall be displayed



on the forward part of the sailboat so as to be visible to a boat approaching from any direction. In lieu of these lighting requirements sailboats may display lights as specified by the international rules of the road.

**R 281.1251 Rowboats.**

- (1) A rowboat shall be equipped with personal flotation devices as required by these rules for a motorboat of the same length.
- (2) If underway between sunset and sunrise a rowboat shall be equipped with a lantern showing a white light which shall be ready at hand and which shall be exhibited in sufficient time to prevent collision.

**R 281.1252 Canoes and kayaks.**

- (1) A canoe or kayak shall be equipped with 1 type I, II, III, or IV coast guard approved personal flotation device as specified in R. 281.1234 in good and serviceable condition for each person aboard. The devices shall be ready at hand and not encased in plastic bags or other type containers.
- (2) If underway between sunset and sunrise a canoe or kayak shall be equipped with a lantern showing a white light which shall be ready at hand and which shall be exhibited in sufficient time to prevent collision.

## Part D Appendix

Figure for 281.1233  
**FIGURE 1**

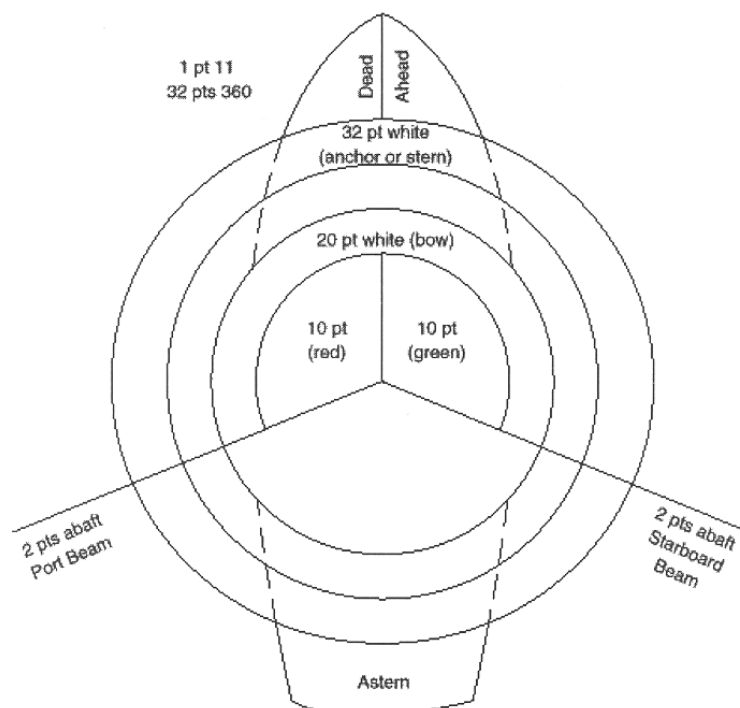


Figure for 281.1235 Fig. 2  
**Figure 2**

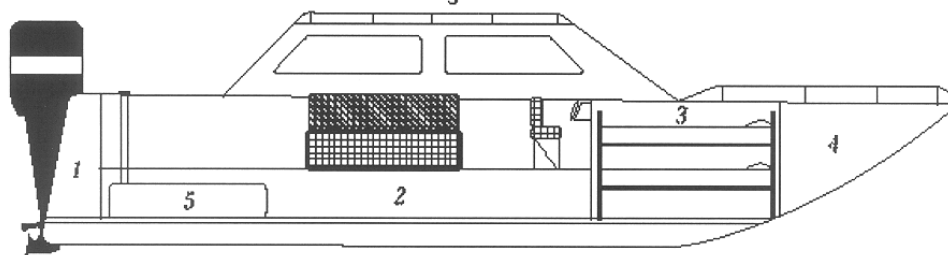


Figure for 281.1235 Fig. 3  
**Figure 3**

